92D CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 92-1049

COASTAL ZONE MANAGEMENT

MAY 5, 1972.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GARMATZ, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 14146]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 14146) To establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zone, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That the Act entitled "An Act to provide for a comprehensive, long-range and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes", approved June 17, 1966 (80 Stat. 203), as amended (33 U.S.C. 1101-1124), is further amended by adding at the end thereof the following title:

"TITLE III—MANAGEMENT OF THE COASTAL ZONE

"SHORT TITLE

"SEC. 301. This title may be cited as the 'Coastal Zone Management Act of 1972'.

"CONGRESSIONAL FINDINGS

"SEC. 302. The Congress finds that—

"(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;

"(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

"(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living

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marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

"(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

"(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

"(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

"(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

"(h) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

"DECLARATION OF POLICY

"SEC. 303. The Congress declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title. and (d) to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

"DEFINITIONS

"SEC. 304. For the purposes of this title—

"(a) 'Coastal zone' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control those shorelands, the uses of which have a direct impact on the coastal waters.

"(b) 'Coastal waters' means (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

"(c) 'Coastal state' means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(d) 'Estuary' means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is meas-

urably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

"(e) 'Estuarine sanctuary' means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

"(f) 'Secretary' means the Secretary of Commerce.

"MANAGEMENT PROGRAM DEVELOPMENT GRANTS

"SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal state for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

"(b) Such management program shall include:

"(1) an identification of the boundaries of the portions of the coastal state subject to the management program;

"(2) a definition of what shall constitute permissible land and water uses;

"(3) an inventory and designation of areas of particular concern;

"(4) an identification of the means by which the state proposes to exert control over land and water uses, including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions;

"(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

"(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process.

"(c) The grants shall not exceed 66⅔ per centum of the costs of the program in any one year. Federal funds received from other sources shall not be used to match the grants. In order to qualify for grants under this subsection, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. Successive grants may be made annually for a period not to exceed two years: *Provided*, That no second grant shall be made under this subsection unless the Secretary finds that the state is satisfactorily developing such management program.

"(d) Upon completion of the development of the state's management program, the state shall submit such program to the Secretary for review and approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such program by the Secretary, the state's eligibility for further grants under this section shall terminate, and the state shall be eligible for grants under section 306 of this title.

"(e) Grants under this section shall be allocated to the states based on rules and regulations promulgated by the Secretary: *Provided, however*, That no management program development grant under this section shall be made in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section.

"(f) Grants or portions thereof not obligated by a state during the fiscal year for which they were first authorized to be obligated by the state, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

"(g) With the approval of the Secretary, the state may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to a regional agency, or to an interstate agency, a portion of the grant under this section, for the purpose of carrying out the provisions of this section.

"(h) The authority to make grants under this section shall expire on June 30, 1975.

"ADMINISTRATIVE GRANTS

"SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal state for not more than 66⅔ per centum of the costs of administering the state's management program, if he approves such program in accordance with

subsection (c) hereof. Federal funds received from other sources shall not be used to pay the state's share of costs.

"(b) Such grants shall be allocated to the states with approved programs based on rules and regulations promulgated by the Secretary, which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: *Provided, however,* That no annual administrative grant under this section shall be made in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section.

"(c) Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

"(1) The state has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in Section 303 of this title.

"(2) The state has:

"(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

"(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

"(3) The state has held public hearings in the development of the management program.

"(4) The management program and any changes thereto have been reviewed and approved by the Governor.

"(5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

"(6) The state is organized to implement the management program required under paragraph (1) of this subsection.

"(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

"(8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

"(9) The management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values.

"(d) Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, of interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

"(1) to administer land and water use regulations, control development in order to insure compliance with the management program, and to resolve conflicts among competing uses; and

"(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

"(e) Prior to granting approval the Secretary shall also find that the program provides:

"(1) for any one or a combination of the following general techniques for control of land and water uses:

"(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

"(B) Direct state land and water use planning and regulation; or

"(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

"(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

"(f) With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: *Provided,* That such allocation shall not relieve the state of the responsibility for insuring that any funds so allocated are applied in furtherance of such state's approved management program.

"(g) The State shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are to be made to the state under the program as amended.

"(h) At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas of the coastal zone which most urgently need management programs: *Provided,* That the state adequately allows for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.

"INTERAGENCY COORDINATION AND COOPERATION

"SEC. 307. (a) In carrying out his functions and responsibilities under this title, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

"(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and the state in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

"(c) (1) Each Federal agency conducting or supporting activities in the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

"(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

"(3) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act,

the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved, and from the state, that the activity is consistent with the objectives of his title or is otherwise necessary in the interest of national security.

"(d) State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

"(e) Nothing in this section shall be construed—

"(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources and navigable waters; nor to displace, supersede, limit or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

"(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

"PUBLIC HEARINGS

"SEC. 308. All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

"REVIEW OF PERFORMANCE

"SEC. 309. (a) The Secretary shall conduct a continuing review of the management programs of the coastal states and of the performance of each state.

"(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of proposed termination and withdrawal and an opportunity to present evidence of adherence or justification for altering its program.

"RECORDS

"SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

"ADVISORY COMMITTEE

"SEC. 311. (a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recom-

mendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than ten persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.

"(b) Members of said advisory committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding $100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

"ESTUARINE SANCTUARIES

"SEC. 312. (a) The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. The Federal share of the cost for each suc sanctuary shall not exceed $2,000,000. No Federal funds received pursuant to section 305 or section 306 shall be used for the purpose of this section.

"(b) When an estuarine sanctuary is established by a coastal state, for the purpose envisioned in subsection (a), whether or not Federal funds have been made available for a part of the costs of acquisition, development, and operation, the Secretary, at the request of the state concerned, and after consultation with interested Federal departments and agencies and other interested parties, may extend the established estuarine sanctuary seaward beyond the coastal zone, to the extent necessary to effectuate the purposes for which the estuarine sanctuary was established.

"(c) The Secretary shall issue necessary and reasonable regulations related to any such estuarine sanctuary extension to assure that the development and operation thereof is coordinated with the development and operation of the estuarine sanctuary of which it forms an extension.

"MANAGEMENT PROGRAM FOR THE CONTIGUOUS ZONE OF THE UNITED STATES

"SEC. 313. (a) The Secretary shall develop, in coordination with the Secretary of the Interior, and after appropriate consultation with the Secretary of Defense, the Secretary of Transportation, and other interested parties, Federal and non-Federal, governmental and nongovernmental, a program for the management of the area outside the coastal zone and within twelve miles of the baseline from which the breadth of the territorial sea is measured. The program shall be developed for the benefit of industry, commerce, recreation, conservation, transportation, navigation, and the public interest in the protection of the environment and shall include, but not be limited to, provisions for the development, conservation, and utilization of fish and other living marine resources, mineral resources, and fossil fuels, the development of aquaculture, the promotion of recreational opportunities, and the coordination of research.

"(b) To the extent that any part of the management program developed pursuant to this section shall apply to any high seas area, the subjacent seabed and subsoil of which lies within the seaward boundary of a coastal state, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 Stat. 29), the program shall be coordinated with the coastal state involved.

"(c) The Secretary shall, to the maximum extent practicable, apply the program developed pursuant to this section to waters which are adjacent to specific areas in the coastal zone which have been designated by the states for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values.

"ANNUAL REPORT

"SEC. 314. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding Federal fiscal year. The report shall include but not be restricted to (1) an identification of the state

programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and a description of the status of each state's program and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allotment of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this title in order of priority; and (9) such other information as may be appropriate.

"(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

"RULES AND REGULATIONS

"SEC. 315. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

"PENALTIES

"SEC. 316. (a) Whoever violates any regulation which implements the provisions of section 312(c) or section 313(a) of this title shall be liable to a civil penalty of not more than $10,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(b) No penalty shall be assessed under this section until the person charged shall have been given notice and an opportunity to be heard. For good cause shown, the Secretary may remit or mitigate any such penalty. Upon failure of the offending party to pay the penalty, as assessed or, when mitigated, as mitigated, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect such penalty and to seek other relief as may be appropriate.

"(c) A vessel used in the violation of any regulation which implements the provisions of section 312(c) or section 313(a) of this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

"(d) The district courts of the United States shall have jurisdiction to restrain violations of the regulations issued pursuant to this title. Actions shall be brought by the Attorney General in the name of the United States, either on his own initiative or at the request of the Secretary.

"APPROPRIATIONS

"SEC. 317. (a) There are authorized to be appropriated—

"(1) the sum of $15,000,000 for fiscal year 1973 and for each of the two succeeding fiscal years for grants under section 305 to remain available until expended;

"(2) the sum of $50,000,000 for fiscal year 1974 and for fiscal year 1975 for grants under section 306 to remain available until expended; and

"(3) the sum of $6,000,000 for fiscal year 1973 and for each of the two succeeding fiscal years for grants under section 312, to remain available until expended.

"(b) There are also authorized to be appropriated such sums, not to exceed $3,000,000, for fiscal year 1973 and for each of the two succeeding fiscal years,

as may be necessary for administrative expenses incident to the administration of this title.

Purpose of the Legislation

The purpose of the legislation is to encourage the various coastal states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

In accomplishing this purpose, the Federal Government would provide funding to assist the states in developing their programs and once the programs are approved as meeting certain specified criteria, additional Federal funding would be provided to assist the states in the administration of the approved programs.

Background and Need for Legislation

The coast of the United States, together with the immediately adjacent land and water areas, is in a general sense the Nation's most valuable geographic asset. At the same time, it is probably the area most threatened with deterioration and irreparable damage.

The coasts and the coastal waters have played a major role in the Nation's development, growth, and defense since its earliest days. In recent years it has become increasingly apparent, however, that the coastal area has been undergoing drastic changes which, unless checked, will ultimately result in irreversible damage to many of the area's features upon which its values largely depend.

One of the first instances of serious consideration being given to the problems of the coastal zone was contained in the report of the Commission on Marine Science, Engineering and Resources, entitled "Our Nation and the Sea." Based on a detailed review by one of the interagency committees established by the Marine Science Council and a similar consideration by one of the panels established by the Commission, the Commission's report, dated January 1969, recommended "that a Coastal Management Act be enacted which will provide policy objectives for the coastal zone and authorize Federal grants-in-aid to facilitate the establishment of State Coastal Zone Authorities empowered to manage the coastal waters and adjacent land." In addition to the recommendation of the Marine Science Commission, the National Estuarine Pollution Study of the Federal Water Pollution Control Administration and the National Estuary Study of the U.S. Fish and Wildlife Service both examined the coastal zone problem in specific areas. Each of these efforts resulted in recommendations urging concerted attention to the problems of the coastal zone, citing both the richness of its resources and the mounting threat to their continued existence.

The Subcommittee on Oceanography sponsored a Coastal Zone Management Conference which was held on October 28, and 29, 1969. Seven panels of that Conference considered various aspects of the coastal zone problem and statements, testimony, and ideas were sub-

mitted by various experts who attended the Conference from all over the Nation. The overwhelming consensus of that Conference was in complete agreement with the recommendation contained in the Marine Science Commission Report.

During the 91st Congress, several bills were introduced in both Houses of the Congress relating to legislative proposals for solving the coastal zone management problem. On the House side were included H.R. 14730, H.R. 14731, H.R. 14845, and H.R. 15099. Similiar bills were introduced in the other body. While differing in detail, the various bills provided for the implementation of the basic Marine Science Commission recommendation. In view of the delays attended upon the creation of a National Oceanic and Atmospheric Administration and a desire to resolve that organizational problem prior to enacting coastal zone legislation, only preliminary hearings were held on any of the House bills. In the other body, a series of hearings was held from March through May 1970. Various bills similar to the House bills were all considered and a new version was introduced early in the 92nd Congress. In the House, additional bills were introduced in the 92nd Congress and of those bills, H.R. 9229, in particular, reflected many of the views elicited during the previous Congress.

The Subcommittee on Oceanography held hearings on H.R. 2492, H.R. 2493, and H.R. 9229 on June 22, 23, and 24, August 3, 4, and 5, and November 1, and 9, 1971, with the primary attention being devoted to the provisions of H.R. 9229. Twenty-four witnesses appeared before the Subcommittee and additional statements were received from various organizations as well as departmental reports from eight departments and agencies. On March 21, 22, and 23, 1972, the Subcommittee on Oceanography met in Executive Session to consider the bills in question and completed its Executive Sessions by unanimously approving H.R. 9229 with various amendments. It reported its action to the Committee on Merchant Marine and Fisheries in the nature of a clean bill, H.R. 14146.

Your Committee met in Executive Session to consider H.R. 14146 on April 12, 18, and 26, 1972. On April 26, H.R. 14146, with an amendment, was ordered reported by your Committee unanimously.

The information developed during the course of the hearings on this legislation was remarkably consistent with the findings of all the predecessor groups that have considered the problem. Witnesses representing the National Governors' Conference, the National Legislative Conference, the Coastal States' Organization, individual state governments, and various conservation and public interest groups, were uniformly concerned for the deteriorating condition of the coastal zone and were united in their support for early legislative action. Similar support was indicated in letters from various states and public organizations which were unable to furnish witnesses during the hearings.

For two successive years the National Governors' Conference has established a strong policy position relating to coastal zone policy, planning, and management. Underscored has been the need for a balanced approach to conservation and development through appropriate administrative and legal devices. At its 1971 meeting in San Juan, Puerto Rico, the following statements were included in the Governors' Policy Positions:

"States must assume primary responsibility for assuring that the public interest is served in the multiple use of the land and waters of the coastal zone. . . .

"Coastal states, because of unique conditions existing along their shorelines, have advantages in coping with coastal zone planning and management that the Federal Government does not have. The Federal Government, however, should establish incentives and assistance to help the coastal states prepare plans and action.

"The ultimate success of a coastal management program will depend upon the effective cooperation of Federal, state, regional, and local areas . . ."

In 1970, the Intergovernmental Relations Committee of the National Legislative Conference included the following statements in its final report:

"The need for coastal zone management legislation derives from the inestimable importance of the estuarine and coastal environment to the Nation's economy, environmental health and quality of life . . .

"While Federal and local government involvement is essential to any effective coastal management program, states must assume primary responsibility for assuring that the public interest is served in the multiple use of the land and waters of the coastal zone."

The simple fact of the matter is that the coastal zone needs urgent attention. Located within the zone is an interior and exterior shoreline of approximately 100,000 statute miles, and residing within the states bordering that shoreline is approximately 75% of the Nation's population. At the shoreline itself, approximately 65 million of the Nation's population elbow for room, almost $100 billion worth of imports and exports cross paths here, more than an annual $300 million worth of commercial fish landings depends upon the nourishment of its coastal waters, and several billions of dollars are spent here annually for recreational purposes.

Large metropolitan areas with their suburban sprawl have blotted out great stretches of the shoreline. Heavy industrial complexes and their supporting industries have entered the zone, lured by available land, labor, and water supplies. An affluent society has descended in large numbers to enjoy the recreation available in the coastal waters and the relaxation available on the coastal beaches. Housing developments in many places have covered the landscape in what were once remote, relatively inaccessible areas, and massive land-fill operations have covered valuable areas of the estuarine marsh lands. Each of these activities has contributed to the pollution and attendant deterioration of the coastal waters.

As the demand for uses in the coastal zone has risen and continues to rise, and as population crushes continue to incrase, the conflicting and competing use demands for this area will necessarily increase in terms of greater pressures for industrial sites, power plants, housing, shipping facilities, harbors, and recreational needs. With these increased pressures, we are in danger above all of the unfortunate destruction of the living resources of the coastal waters. Seventy percent of the present United States commercial fishing effort takes place in coastal waters. In addition, other species depend upon the estuarine areas and marsh lands as nursery areas and spawning grounds, and

these areas may become even more important as future uses develop, such as the expansion of aquaculture activities.

Hard choices must be made. If those choices are to be rational and devised in such a way as to preserve future options, the program must be established to provide the guidelines which will enable the selection of those choices. That program must give attention not only to present demands but also to future needs. Your Committee believes that it is of national importance that the Federal Government encourage the states to arrange for the optimum utilization of coastal zone resources, coupled with an adequate protection of the zone's natural environment.

There is no question that local governments do possess considerable authority in the coastal zone, but in many cases their authority does not extend far enough to deal fully with the problems of the zone. This fact has been recognized in several of the coastal states and legislation which partially meets the total coastal zone needs has been enacted in the past few years in those states. This proposed legislation is designed to encourage those states and others to move forward more rapidly in the development of a coordinated, cohesive program. The legislation further recognizes that various local interests must be drawn into the state management processes, and throughout the bill provisions are made for coordination on as wide a basis as possible.

The coastal zone problems are related to but are significantly different from problems of general overall land use. It is for that reason that your Committee did not agree with the positions of the various departmental witnesses who, while all recognizing the critical nature of the costal zone problems, proposed that the solution of those problems should be merged under an overall land use policy. It is true that almost any combination of management approaches is theoretically possible. However, if solutions are to be meaningful, large overall ecosystem problems must be divided into manageable units. It is for that reason that your Committee urges the immediate adoption of this coastal zone management legislation, leaving to future action proposed legislation concerning land use policy relating to interior lands. The problems of the coastal zone and in particular the coastal waters are significantly unique and should be treated in a separate program. Once this program is initiated and solutions are found, those solutions will serve well in consideration of overall land use problems to the extent that the two are similar.

Section-by-Section Analysis

The bill amends the Act of June 17, 1966, which established a National Council on Marine Resources and Engineering Development and a Commission on Marine Science, Engineering and Resources, by adding a new title to that Act.

Section 301. *Short Title.*—Title III may be cited as the "Coastal Zone Management Act of 1972."

Section 302. *Congressional Findings.*—This section contains a series of findings concerning the nation's coastal zone. The findings relate to the national interest in the management, use, protection, and development of the coastal zone; the resource values of the zone; the

losses suffered to the zone resources because of increased demands for various uses of the zone; the vulnerability of the zone to man's activities; the values being lost and the special characteristics being damaged; the inadequacies of present planning and regulatory arrangements; and the necessity for encouraging and assisting the coastal states to develop rational management programs for land and water uses in the coastal zone.

In enumerating the types of activities which are threatening the special values of the coastal zone, your Committee intends to emphasize that uncoordinated and uncontrolled uses can no longer be tolerated if the values of the zone are not to be completely destroyed. At the same time, coordinated, controlled, and rational use allocations can serve not only to protect but also to enhance zonal values and will permit the utilization of zone resources while protecting the natural values of the zones from further degradation.

Section 303. *Declaration of Policy.*—This section establishes a national policy to protect, preserve, develop, and, where possible, to restore or enhance the resources of the coastal zone, to encourage and assist the states in exercising their responsibilities in this critical area, to provide for the close cooperation and active participation of all Federal agencies with responsibilities for Federal interests in the zone, and to insure the widest possible involvement of all instrumentalities and individuals, public and private, governmental and nongovernmental, Federal, regional, state, and local, in the decision making and implementation process designed to maintain the proper resource protection-utilization balance. The resources involved include natural, commercial, recreational, industrial, and esthetic resources.

Section 304. *Definitions.*—This section defines the terms "coastal zone", "coastal waters", "coastal state", "estuary", "estuarine sanctuary", and "Secretary".

(a) "Coastal zone" is defined as meaning the coastal waters and the adjacent shorelands, strongly influenced by each other and in close proximity to the shorelines of the coastal states. This general definition is deliberately left broad and flexible, providing a basic concept which will fit the varied and divergent situations which exist among the several coastal states involved. The reference to coastal waters, hereafter specifically defined, encompasses the islands and other built up lands located within those waters, as well as the submerged lands beneath them. The reference to shorelands encompasses any bodies of water located within those shoreland areas, including fresh or brackish lakes or ponds, as well as any fresh water aquifers that may be present beneath those lands.

As to the outer and inner limits of the zone, it extends outward, in the Great Lakes area, to the international boundary between the United States and Canada and, in other areas bordering on the oceans, seas, gulfs, and sounds, to the outer limit of the territorial sea which, under the present posture of international law, means three miles from the base line from which the territorial sea of the United States is measured. Should the United States, by future action, either through international agreement or by unilateral action, extend the limits of the United States territorial sea further than the present limits, the coastal zone would likewise be expanded, at least to the extent that the

expanded water area and the adjacent shorelands would strongly influence each other, consistent with the general definition first referred to above.

The inland reach of the coastal zone extends only as far inland as is necessary to control the shorelands adjacent to the coastal waters where the uses of those shorelands have a direct impact on coastal waters. The phrase "direct impact" is intended to cover only those impacts of a significant nature. The purpose of limiting the inland reach is to restrict the operation of this legislation to its basic underlying purpose, that is the management and the protection of the coastal waters. It would not be possible to accomplish that purpose without to some degree extending the coverage to the shorelands which have an impact on those waters. It is, therefore, the intent of your Committee to bring under the coverage of this legislation only those shoreland areas the control of which is necessary to the effective management and protection of the coastal waters themselves. It is further the Committee's intent that the legislation should not in any way inhibit a coastal state in its desire to combine the management and control of inland areas with the management and control of those areas within the coastal zone if such a combination is considered appropriate. Nevertheless, in the case of such an election on the part of a state, this legislation would not provide federal assistance funds for the implementation of that part of the program related to lands beyond the limits of the coastal zone. Furthermore, it is anticipated that the provisions of this title would be compatible with the provisions of any future overall national land use policy. Indeed, the management programs developed under this title could well serve as prototypes for management programs related to overall land use, at least to the extent that the problems to be solved are similar. In any case, since under both this title and the various proposals for national land use policy, the regulation of uses of non-federal lands is a matter for the states, there is no impediment created under this title to the abilities of the various states to integrate their coastal zone and inland land management programs. As stated above, the solution of problems faced by the state in the development of a coastal zone management program will materially assist in the subsequent development of an overall land use program.

(b) "Coastal waters" is defined as meaning (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the lakes themselves, their connecting waters, their harbors and roadseads, and estuary-type areas such as bays, shallows, and marshes along the lake shore lines and (2) in other areas, bordering on the oceans, seas, gulf, and sounds, those waters, adjacent to the coast line, which contain a measurable quantity or percentage of sea water. The bodies containing salt or brackish water include but are not necessarily limited to sounds, bays (either natural or artificial), lagoons, bayous, ponds, and estuaries.

(c) "Coastal state" is defined as meaning a state of the United States located in, or bordering on, the Atlantic, Pacific or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of the title, the term includes Puerto Rico, the Virgin Islands, Guam and American Samoa.

(d) "Estuary" is defined as meaning that part of a river or stream or other body of water along the coastline having an unimpaired connection with the open sea, in which the sea water is measurably diluted with fresh water drained from the land. Through this definition, your Committee intends to make it clear that the inland reach of any estuary can go no further than the line where the ocean tide actually intrudes. In other words, it does not extend all the way to the line of tidal influence but only to the line of tidal action. The term includes areas of a similar type on the Great Lakes such as bays, shallows, and marshes along the lake borders.

(e) "Estuarine sanctuary" is defined as meaning a research area set aside to provide an opportunity for scientists and students to examine over a period of time the ecological relationships within the area and the impact of drainage intrusions into the area. The research area may include a part of an estuary or the entire estuary and also may encompass transitional areas and adjacent uplands where desirable to create one single natural unit.

(f) "Secretary" is defined as meaning the Secretary of Commerce. Varous possibilities were considered as the Federal focal point for coastal zone coordination. After careful consideration, it was concluded that the logical repository for that coordination was the National Oceanic and Atmospheric Administration, which was established in 1970 as the lead agency in ocean research and resource development. While other Federal departments and agencies have responsibilities involving the coastal waters, none has so broad and extensive an involvement as does NOAA. This involvement includes programs relating to fisheries, mapping and charting, marine minerals technology, and environmental monitoring and prediction, together with the research activities involving each of these, in addition to the administration of the National Sea Grant Program, 80% of which is addressed to reasearch relating to coastal waters and their estuaries.

Just as NOAA is extensively involved in ocean coastal water programs, it is also charged with responsibilities as to Great Lakes waters, including hydrographic surveys, mapping and charting, basic research in water motion, water characteristics, and water quality, and the collection, coordination, analysis, and publication of data relating to Great Lakes water resources.

Because this legislation is designed to assist the states in exercising their responsibilities in the national management of their coastal waters and the adjacent impacting shorelands, your Committee concluded that NOAA as a water-oriented agency, could best coordinate the program and administer the allocation of federal funds rather than other possible choices which are predominantly land-oriented. The coordination provisions of section 307 will insure that the interests of all other federal agencies are recognized and adequately protected.

In view of the fact that NOAA is a constituent element of the Department of Commerce, the responsibility for Federal supervision and coordination under this title is placed in the Secretary of Commerce. It is the Committee's intent and firm expectation that the Secretary will exercise that responsibility through the Administrator of the National Oceanic and Atmospheric Administration.

Section 305. *Management Program Development Grants.*—This section authorizes the Secretary to make annual grants to assist the coastal states in developing their coastal zone management programs. No more than two grants, in successive years, may be made to any single state, and the Federal share may not exceed two-thirds of the total development cost, nor may funds received from the Federal Government through other programs be utilized to pay the state's share of the cost. In addition, no second grant may be made to a state unless the Secretary finds that the state is satisfactorily developing its program. This latter provision was included to insure that the state, once embarked on the development of its program, will proceed expeditiously.

The allocation of grants under this section will be made in accordance with regulations to be promulgated by the Secretary. It is intended that those regulations will take into account all relevant factors, including, but not limited to, the complexities existent in the various localities, the nature and extent of the area to be covered by the program, the intensity of the pressures for competing uses, the population of the area, present and predicted, and the anticipated cost in developing the program. In order to be sure that the grants are adequately divided among the states involved, a maximum of 15% of the amount appropriated in any one year may be allocated to a single state. While no minimum percentage or amount is specified, it is intended that the Secretary make funds available to every eligible state, consistent with each state's overall needs and with its ability and intention to proceed expeditiously with the development process.

The authority of the Secretary under this section is deliberately left broad and flexible in order that unforeseen contingencies may be accommodated. The Committee intends to carefully review the proposed allocation regulations and if necessary, to take any corrective action to insure that the allocations are fair and equitable for all states concerned.

As an additional incentive for expeditious action by the state, any portion of an allocated grant not obligated by the state during the first year of allocation, or the first year immediately following, will revert to the Secretary to be added to the funds available for grants under this section. Any portion of the funds allocated to a state may, with the approval of the Secretary, be reallocated in turn to any recognized agency or authority, whether a local government, a regional agency, an area wide agency, or an interstate agency, which in the state procedures is qualified to assist the state in the development of its program. This type of reallocation would be particularly appropriate when the agency involved would later have responsibility in the program administration.

Subsection (b) lists certain items that must be included in the state's program: (1) specification of the state's coastal zone boundaries, (2) a delineation of uses permissible within zone areas, (3) a designation of particularly critical areas, (4) an identification of the state's intended methods to control uses within the zone, (5) broad guidelines on the priority of uses, including specifically those uses of lowest priority, and (6) a description of the state's proposed implementation structure, including the responsibilities and the interrelationships of all the elements involved, whether state, interstate, regional, area wide, or local.

The items listed above are in no sense inclusive and there are many additional subject areas that must be included if the program is to be comprehensive. Those to be considered for coverage should certainly include recreation, transportation, housing, fishing, power, communication, industrial, and mineral resource needs; protective requirements for water quality, fish and wildlife habitats, open space, and esthetic values; present and long-range use requirements which will not foreclose all options for future generations; flood control and shore line erosion prevention; and all other matters impinging upon coastal zone resource conservation—in the finest sense of that often abused word. It bears repeating and cannot be over emphasized that the above list is not intended to be exhaustive and that all additional pertinent matters must be carefully considered, depending upon the particular circumstances which prevail in the state involved.

Section 306. *Administrative Grants.*—This section authorizes the Secretary to make annual grants to assist the coastal states in administering the state programs which the Secretary has approved. The Federal share of the total administrative cost may not exceed two-thirds of the cost, and Federal funds received through other programs may not be used by the state to pay any part of its share. This latter limitation is similar to other successful grant programs, such as the National Sea Grant program, where it has been evident that the interest and involvement of the recipient is often best demonstrated by the amount of its own funds that it is willing to commit in order to obtain the Federal grant. There are other provisions, such as the regulatory authority of the Secretary, the 15% maximum allocation, the lack of a minimum allocation, and the procedures for reallocating funds to local governments and other recipients, the discussions of which as to section 305 provisions are applicable to the similar provisions of this section. It should be pointed out that the grants under this section are designated for use in administration of the state program. They are not intended and are not available for any acquisition costs of property or property interests that the state may need or desire in implementing its coastal zone program.

Before allocating funds under this section, the Secretary must make certain specific findings as to the state program which has been submitted for approval. He must find—

(1) that the program has been developed in accordance with regulations promulgated by him, after the state has given appropriate public notice and has provided an opportunity for full participation by all interested parties;

(2) that the state has coordinated its program with applicable plans already existent in its coastal zone area and has provided for a continuing consultation and coordination with all responsible local governments and various agencies to assure their full participation in carrying out the purposes of the title;

(3) that the state has held public hearings in developing its program;

(4) that the program and any changes have been reviewed and approved by the Governor;

(5) that the Governor has designated a single agency as a contact point to receive and administer the grants;

(6) that the state is properly organized to expeditiously and effectively implement its program;

(7) that the state possesses the necessary authorities to implement its program;

(8) that the program takes into consideration the national interest involved in the siting of facilities, such as power plants and transportation facilities, which may be necessary to meet requirements other than local in nature; and

(9) That the program provides for procedures for preserving or restoring specific areas.

The items listed are in the main self-explanatory and in some cases refer to specific requirements found in other sections of the title. As to the national interest requirements referred to under item 8, your Committee wishes to make it clear that the primary responsibility for developing the state program remains in the state. Nevertheless, if the program as developed is to be approved and thereby enable the state to receive funding assistance under this title, the state must take into acount and must accommodate its program to the specific requirements of various federal laws which are applicable to its coastal zone. It must also recognize that there is no provision of this title which relinquishes any federal rights in and powers of regulation of federal lands, or of the paramount federal interests in navigable waters, or of any of the constitutional powers of the federal government, including those relating to interstate and foreign commerce, navigation, national defense, and international affairs. To the extent that a state program does not recognize these overall national interests, as well as the specific national interest in the generation and distribution of electric energy, adequate transportation facilities, and other public services, or is construed as conflicting with any applicable statute, the Secretary may not approve the state program until it is amended to recognize those Federal rights, powers, and interests.

In addition, prior to granting approval of the state program, the Secretary must find that the state has the authority necessary for the management of the coastal zone, including the power to administer use regulations to control development in order to insure compliance, to resolve conflicts among competing uses, and to acquire property interests in lands, water, and other property through condemnations or otherwise when necessary to achieve conformance with the program. Furthermore, prior to granting approval, the Secretary must find that one or more combinations of land and water use control techniques are provided for—local implementation of state established criteria and standards subject to state administrative review; state land and water use planning and regulation; or state administrative review for consistency with the program of all development plans, projects, or use regulations proposed by any state or local authority or private development, with the state's power to approve or disapprove after public notice and an opportunity for hearings. The program must also provide that local use regulations do not unreasonably restrict or exclude uses of regional benefit.

Finally, this section provides that the state may amend or modify its program provided the modification is in accordance with the same procedures required for development of the original program, and any such amendment or modification must be approved by the Secretary

before additional administrative grants are made under the amended program. With the approval of the Secretary, the program may be developed and adopted in segments to meet urgent needs of specific areas, but any such segmented development must adequately allow for ultimate coordination into a simple unified program which will be completed as soon as is reasonably practicable.

Section 307. *Interagency Coordination and Cooperation.*—This section contains requirements for the coordination and cooperation among federal agencies and between federal and state agencies, which will be necessary to achieve the purposes of this title, as reflected in the Congressional declaration of policy in section 303. The term agency as used here and elsewhere in the title should be construed in a broad sense to cover all forms of organizational units, unless a particular provision indicates otherwise.

There are numerous existing federal programs and activities conducted in the coastal zone which must be taken into account in the administraton of this title. This is also true of future programs and activities, whether under present consideration or not yet contemplated. Potential duplication among these programs can and must be prevented by careful coordination procedures. It is the Committee's intent that "coastal zone management" be complementary to other federal and state programs and that it serve in the coastal zone as a coordinating, rather than a duplicating, mechanism.

Subsection (a) requires the Secretary to work closely with all other federal agencies which are involved in coastal zone activities. The consultation and cooperation required under this subsection will insure that the Secretary carefully considers the viewpoints of those other agencies when their interests are involved. In addition, in those instances where it is possible to do so, the Secretary shall coordinate his activities with those of other agencies. It is intended that this coordination be accomplished, where possible, through existing mechanisms. For instance, your Committee would anticipate that the Secretary would utilize, as feasible, the interagency activities of NOAA's Associate Administrator for Interagency Relations, the advisory committee established under section 311 of this title, or the National Advisory Committee on Oceans and Atmosphere, and the departmental observers provided in the legislation establishing that committee, or all of these. In subject areas falling within their expertise, the Water Resources Council and the various River Basin Commissions could also furnish valuable assistance.

Subsection (b) provides that, prior to approving any state program, the Secretary must insure that the state, in developing those programs, has adequately considered the views of any federal agency, the activities of which would be affected by the state program. Should serious disagreement between a state and an agency persist, the Secretary will seek to resolve the disagreement, with the assistance of the Executive Office of the President, as might be appropriate. To the extent that the disagreement is not completely resolved, it could result in a decision by the Secretary not to approve the state program or, where appropriate circumstances existed, the Secretary could approve the program and the provisions of paragraphs 1 and 2 of subsection (c) would thereafter govern the federal agency actions.

Subsection (c) provides that once a state management program has been approved pursuant to the procedures set forth in the bill, it is expected that each federal agency in conducting and supporting activities in the coastal zone will see that those activities are consistent with the program. Under the procedures established, the Secretary is required to consult with all cognizant federal agencies prior to approval of a program. It is anticipated that during this process any aspects or phases of the proposed program which are deemed by any agency to be impractical to carry out or support will be brought to the attention of the Secretary and steps will be taken at that point to iron out whatever difficulties appear to be established. There may, however, arise, after the approval of the program, some circumstances not foreseen at the time of its approval which may present a federal agency with an obstacle or situation which as a practical matter may prevent complete adherence to the approved program. For that reason, the Committee felt that some leeway should be written into the statute with respect to activities of federal agencies in connection with approved programs.

It is not anticipated that there will be any considerable number of situations where as a practical matter a federal agency cannot conduct or support activities without deviating from approved state management programs.

The same provisions are applicable to any development projects which are undertaken by a federal agency in the contiguous zone. In addition, this subsection provides for a concurrent state review of applications for federal licenses or permits in the coastal zone to insure that the proposed activity is consistent with the state's approved program. A review and appeal procedure is provided whereby the Secretary may, in effect, overrule a state's objection when he finds that the activity for which the license is being sought is consistent with the purposes of this title or is otherwise necessary in the interest of national security.

Subsection (d) provides essentially the same procedure and possibility for an overriding decision by the Secretary as to applications for federal licenses or permits when state and local governments submit applications for federal assistance under other federal programs.

Subsection (e) emphasizes that whatever coordinating procedures are required by this section in order to carry out the purposes of this title, there is nothing in those requirements which shall be construed to diminish either federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources and navigable waters. Nor is anything in the coordinating mechanism intended to displace, supersede, limit, or modify any duly constituted interstate compact or the jurisdiction of any legally established joint or common agency of two or more states or of two or more states and the Federal Government, nor to limit the authority of the Congress to authorize and fund projects.

In addition, the subsection specifically provides that the coordinating requirements of this section shall not be construed as superseding, modifying, or repealing existing laws applicable to the various federal agencies. Those laws continue to apply, and the specific requirements as to their implementation must be taken into account in the

development of the states' programs. The laws referred to would include, among others, the Federal Water Pollution Control Act, the Clean Air Act, the Solid Waste Disposal Act, the Refuse Act of 1899, and the Fish and Wildlife Coordination Act.

Finally, nothing in the coordinating mechanism is intended to change the jurisdiction, powers, or prerogatives of certain entities created under international agreements between the United States and Canada and the United States and Mexico, the two countries bordering the coastal zone of the United States.

Section 308. *Public Hearings.*—This section provides that, when public hearings are required under this title, such as in the development or amendment of the state program, the hearings must be publicly announced at least 30 days prior to the date on which the hearings are held. At the time of the announcement, all pertinent agency materials must be made available to the public for review and study. In addition, similar materials subsequently developed must also be made available to the public expeditiously. To the extent feasible, it is the Committee's intention that the same procedures be followed when public hearings are held, even though not specifically of applications for Federal licenses or permits under Section 307(c)(3). The requirements for public hearings under this section are in addition to any other requirements of law and are not in any way intended to replace or supersede remedies otherwise available to the public, whether through statutory enactment or court decision, for the protection of the coastal zone or its resources.

Section 309. *Review of Performance.*—This section provides for a continuing review of approved state programs by the Secretary. After adequate notice to the state involved of his intention, and after an opportunity for the state to be heard on the issue, the Secretary may terminate any Federal assistance under Section 306 if he finds that the state is not adhering to its approved program and is not justified in its action. Upon the termination action by the Secretary, he may withdraw any unexpended portion of allocated Federal assistance.

Section 310. *Records.*—This section provides that each grant recipient, including those receiving grants through state reallocation, must maintain adequate records as prescribed by the Secretary, which shall be readily accessible to the Secretary and to the Comptroller General of the United States or any of their duly authorized representatives, in order that proper and effective audits may be facilitated to insure that the funds granted under this title are being used in accordance with the provisions of the title and the implementing regulations.

Section 311. *Advisory Committee.*—This section authorizes and directs the Secretary to establish a Coastal Zone Management Advisory Committee to advise him on coastal zone policy matters. In considering the size of the Committee, it was concluded that it would be preferable to keep the membership comparatively small in number in order that its work may prove productive rather than to create a larger and therefore another potentially unwieldly discussion group. In order to permit some flexibility, no specific requirements are included as to the exact representation on the group. It is intended, however, primarily as a governmental group and should include repre-

sentatives of those Federal departments with major coastal zone interests, as well as representatives of state and local government constituencies. To the extent feasible, the various coastal regions should be represented.

As experience develops concerning the Committee's functions and activities, the Secretary is expected to make any pertinent recommendations for necessary changes in the provisions of this section. While your Committee believes in the value and efficacy of a properly constituted advisory group, it prefers to start with a small group and later to expand it as necessary rather than to contribute to its ineffectiveness by creating a large, cumbersome mechanism merely to insure that all possible group interests are represented in the membership. The Committee believes that the interests of various segments of the general public are properly protected under the bill by the various requirements for public notice and participation, as well as by representation on other Committees, such as the National Advisory Committee on Oceans and Atmosphere, which was recently created by PL 92-125.

This section further provides for compensation and travel expenses for those members of the Advisory Committee who are not regular full-time employees of the United States.

Section 312. *Estuarine Sanctuaries.*—This section authorizes the Secretary, in accordance with rules and regulations to be promulgated by him, to make available to coastal states grants of up to 50% of the cost of acquisition, development, and operation of estuarine sanctuaries, to be established for the purpose of providing research areas in which scientists and students would have an opportunity to examine the effect of processes occurring within the area. No limit upon the number of sanctuaries is established, but a maximum of $2 million is established for the Federal share of the cost of any such sanctuary. Federal funds received under Section 305 or Section 306 may not be used for the purposes of this section, to constitute a part either of the Federal or of the state share.

This section also authorizes the Secretary, when it is requested by the state concerned, to extend an established sanctuary seaward beyond the coastal zone, that is, the territorial limits, if such an extension is necessary in order to effectuate the purposes for which the established sanctuary was created. The Secretary is also authorized to issue necessary and reasonable regulations related to such a sanctuary extension. The creation of estuarine sanctuaries under this section is considered to be essential for research purposes in order to provide some of the information essential to coastal zone management decision making. It is for that reason that it is expected that the regulations promulgated by the Secretary will provide for regional variations and for estuaries of various ecological types in order that these sanctuaries might serve the widest possible needs. Careful consultation with the scientific community will be required, and the wealth of information already assembled in such studies as the National Estuary Study by the U.S. Fish and Wildlife Service should be utilized. The sanctuaries which are established can also be used to monitor significant changes in the environment and to serve as a means for forecasting future impacts. The exact number of sanctuaries to be established in any single year

will depend upon the funds available and will vary in accordance with the acquisition costs, depending upon whether the state concerned has retained or relinquished its fundamental property rights in the areas proposed for selection.

Section 313. *Management Program for the Contiguous Zone of the United States.*—This section provides for the development by the Secretary in coordination with the Secretary of the Interior, and after appropriate consultation with other interests, both governmental and non-governmental, of a management program for the area outside the coastal zone and within 12 miles of the base line from which the territorial sea is measured. The basic program criteria are outlined in general form. It is possible that the Secretary, after considering the various problems involved in such a program development, may find that additional statutory authority is required under this section. However, the intention of the language as presently proposed is that present authorities should be utilized in the development of the program. It is for that reason that the program development is specified as a coordinated effort between the Departments of Commerce and the Interior since those two departments have the responsibilities for resource management in the contiguous zone.

Since the program provided for under this section is intended to be complementary to the approved state program of an adjacent state, it is expected that the Secretary will consult the appropriate state in developing a program in the contiguous zone. In addition, this section requires coordination with the coastal state involved, where the state's rights, title, and interests in subsoil and seabed resources extends beyond the territorial limits of the United States, under the provisions of the Submerged Lands Act. At the present time, this applies only to the coastal waters of the states of Florida and Texas in the Gulf of Mexico.

Subsection (c) requires that the Secretary shall, to the maximum extent practicable, apply the coastal zone program to waters immediately adjacent to the coastal waters of a state, which the state has designated for specific preservation purposes.

Of course, any Federal program within the contiguous zone must be administered consistent with the obligations of the United States under international law. The program is, therefore, restricted as far as its external impact is concerned. It can be enforced as to foreign citizens only as far as those citizens are, in accordance with recognized principles of international law, subject to specific elements of the program.

Section 314. *Annual Report.*—This section requires that the Secretary prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a complete report on the administration of this title for the preceding Federal fiscal year. The date of November 1 was selected as providing sufficient time to prepare the report and yet not to coincide with numerous other reports that are required to be filed at the beginning of the calendar year. This section further lists specific items that must be included within the annual report without in any way limiting the Secretary in any appropriate information or recommendations which he may desire to include.

One of the anticipated values of the report, which will include details of state participation and fund expenditures is the opportunity for the Congress to insure that the various state programs are in fact consistent with the desire for a coordinated national initiative in the utilization and protection of coastal zone resources. The annual report is intended to serve as the basis for an annual Congressional review of the program, looking to changes that may be necessary in order to achieve the objectives of this title and to enhance the value of the coastal zone management processes.

Section 315. *Rules and Regulations.*—The regulations envisioned under this section are basically administrative regulations necessary to implement the various sections of the title, including the establishment of procedures whereby program development grants are requested and reviewed, regulations governing the program approval procedures and allocation of administrative grants, regulations concerning the procedures under which continuing review of approved programs is implemented, and regulations concerning the procedures for applications and allocations for establishment of estuarine sanctuaries. In addition, the Committee expects the Secretary to utilize the authority of this section to establish standards and criteria which must be met by the states in connection with the issuance of their own regulations under their management programs. Any such criteria or standards established must necessarily be broad in nature so that the differing requirements and situations in the various states are taken into consideration, as well as the specific techniques which the states have elected to use in controlling land and water uses, as provided for in section 306(e)(1).

Section 316. *Penalties.*—This section provides that whoever violates any regulation applicable to the estuarine sanctuary extension provisions of Section 312 or the implementing regulations for the Federal management program for the contiguous zone under Section 313 shall be liable to a civil penalty of not more than $10,000.00 to be assessed by the Secretary. The regulations involved under both Section 312 and Section 313 must be applied in accordance with recognized principles of international law, and no foreign citizen may be subjected to such penalties except as he may be subject to United States jurisdiction by virtue of the principles of international law or by specific agreement of the foreign state of which he is a subject.

This section also provides for mitigating procedures, for collection procedures and for injunctive procedures to restrain violations of applicable regulations. In addition, it provides that when a vessel is used in the violation of an applicable regulation, that vessel shall be liable in rem for any civil penalty assessed for that violation.

Section 317. *Appropriations.*—This section authorizes a three-year program and appropriations for that three-year period consisting of $15 million for each of the three years beginning with fiscal year 1973 for program development grants under section 305, $50 million for each of fiscal years 1974 and 1975 for administrative grants under Section 306, and $6 million for each of the three fiscal years beginning with fiscal year 1973 for estuarine sanctuary grants under Section 312.

In addition, there are authorized such necessary sums, not to exceed $3 million for each of the three fiscal years beginning with fiscal year

1973 as may be necessary for general administrative expenses to implement this title.

Cost of the Legislation

Pursuant to Clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee estimates the cost of the legislation as follows:

Current fiscal year: no cost.

[In millions of dollars]

	Fiscal years				
	1973	1974	1975	1976	1977
Planning grants (sec. 305)	15	15	15	0	0
Administrative grants (sec. 306)	0	50	50	0	0
Estuarine sanctuaries (sec. 313)	6	6	6	0	0
Administration	3	3	3	0	0
Total	24	74	74	0	0

The legislation as drafted provides for authorization of funds through June 30, 1975. Any costs for succeeding years including FY 76 and FY 77 will require additional legislative action. The total estimated cost through June 30, 1975 is $172 million. The Committee is not aware of any estimates of costs made by any Federal agency for planning grants, administrative grants, or estuarine sanctuaries (sections 305, 306 and 313). The Department of Commerce estimates the annual administration costs as being approximately $2,830,000.00 per year.

Departmental Reports

The following are reports from the various Federal departments and agencies on coastal and estuarine management bills. As a result of the hearings, H.R. 14146 was considered in Executive Session and ordered reported, with an amendment, as a clean bill.

Comptroller General
of the United States,
Washington, D.C., April 21, 1971.

B-167694.

Hon. Edward A. Garmatz,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives.

Dear Mr. Chairman: This is in reference to your letter of February 22, 1971, requesting our views on H.R. 2493, entitled: "A BILL To assist the States in establishing coastal and estuarine zone management plans and programs."

We have no special information as to the advantages or disadvantages of the proposed legislation and therefore, make no comments as to its merit. However, we have the following suggestions concerning specific provisions of the bill.

The act which the bill proposes to amend was approved June 17, 1966, and is codified in 33 U.S.C. 1101 *et. seq.* Consequently, line 8

on page 1 of the bill should be changed to read "approved June 17, 1966, as amended (33 U.S.C. 1101 *et. seq.*)."

Page 6, line 3, of the bill refers to "Sec. 306." This should be changed to "Sec. 305."

Page 19, line 4, of the bill refers to "Sec. 313." This should be changed to "Sec. 314" and the following section appropriately renumbered.

Section 304(b), page 5, defines coastal and estuarine zone as extending seaward to the outer limit of the United States territorial sea. The International Convention on the Continental Shelf recognizes the sovereign rights of the coastal nation to explore the shelf and exploit its natural resources. Therefore, the committee may wish to consider redefining the coastal and estuarine zone to include the continental shelf which the Convention defines as "the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters, or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas" and "the seabed and subsoil of similar submarine areas adjacent to the coast of islands."

Section 304(c), page 5, defines "Coastal State" as including Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia. We assume it is not intended to include the Trust Territory of the Pacific Islands and the Panama Canal Zone.

Section 305(a), page 6, of the bill authorizes the Secretary of Commerce to make annual grants to any coastal State in the development of a management plan and program for the land and water resources of the coastal and estuarine zone, provided that no such grant shall be made under this subsection until the Secretary finds that the coastal State is adequately and expeditiously developing such management plan and program.

This provision appears to preclude grants to States which have not yet started to develop a management plan and program. The committee may wish to consider language changes which would allow States which have not started to develop a management plan and program to receive grants for the purpose of developing a management plan and program.

Section 306(a), page 7, of the bill authorizes the Secretary to make annual grants to any coastal State for not more than 66⅔ per centum of the costs of administering the coastal State's management plan and program. Section 306(c)(4), page 8, of this bill states that the Governor shall designate a single agency to receive and administer the grants for implementing the management plan and program. It is not clear whether the grants issued under this section are intended to cover the costs of administering the management plan and program or if these grants are solely intended as operating grants for the implementation of the management plan and program. The committee may wish to clarify this language.

Section 306(b), page 7, of the bill states that grants shall be allotted to the States with approved plans and programs based on regulations of the Secretary. This provision may ont result in an equitable distribution of funds to each of the coastal States in that under section 306(i), page 12, a grant of an amount up to 15 percent of the total amount

appropriated may be made to one coastal State. We believe that these grants should take into account the populations of such States, the size of the coastal or estaurine areas, and the respective financial needs of such States.

Section 307, page 12, authorizes the Secretary to enter into agreements with coastal States to underwrite, by guaranty thereof, bond issues or loans for the purpose of land acquisition or land and water development and restoration projects. We believe that the bill should prescribe the terms and conditions of the bond issues or loans that may be guaranteed by the Secretary and the rights of the Federal Government in the case of default. Section 307 also states that the aggregate principal amount of guaranteed bonds and loans outstanding at any time may not exceed $140 million. We believe that the bill should further specify an aggregate amount of such guaranteed bond issues or loans available to each State. We also note that the bill does not identify the source of the Federal funds that would be needed in the event of any defaults.

Section 311, page 14, authorizes the Secretary to establish a coastal and estuarine zone management advisory committee composed of not more than 15 persons designated by the Secretary. The section does not (1) specify the term of service of the members, and (2) provide for the designation of a chairman. The committee may wish to provide for (1) the term or terms of service and (2) the selection of a chairman.

Section 313(a), page 15, should be clarified as it is now unclear whether it provides that States must adequately consider the views of principally affected Federal agencies prior to submitting their plans to the Secretary or whether the Secretary must adequately consider the views of principally affected Federal agencies prior to his approval of the States' plans. In either case, the committee may wish to set a specific time limit within which principally affected Federal agencies must submit their views.

Sincerely yours,

R. F. KELLER,
Acting Comptroller General
of the United States.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., June 28, 1971.

B-167694.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives.

DEAR MR. CHAIRMAN: By letter of May 5, 1971, you requested our comments on H.R. 2492, 92d Congress, which would amend the Marine Resources and Engineering Development Act of 1966, as amended, to provide for the effective management of the Nation's coastal and estuarine areas by adding title III which, if enacted, would be cited as the "Coastal and Estuarine Area Management Act."

We have no information as to the advantages or disadvantages of the proposed legislation and therefore we have no recommendation with

respect to its enactment. However, we have the following comments concerning specific provisions of the bill.

Section 303(c) authorizes the Administrator of the National Oceanic and Atmospheric Agency to enter into agreement with any coastal State to underwrite, by guarantee, bonds issued or loans obtained by such State for land acquisition, water development, or restoration projects undertaken by such State in connection with the implementation of a coastal or estuarine management plan. We believe that the bill should prescribe the terms and conditions of the bond issues or loans that may be guaranteed by the Administrator. We also believe that an aggregate principal amount of guaranteed bonds and loans that may be outstanding at any time should be stated in the bill. Further, assuming that the appropriations authorized by section 308(b) relate to activities under section 303(c)(2), the bill makes no provision for the possibility that the liability for payments under section 303(c)(2) might exceed the amounts appropriated. Also it does not identify the recourse or rights of the Federal Government in the event of any defaults.

Section 306(5) defines "coastal State" as any of the several States which include coastal or estuarine areas within their boundaries, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa. We assume that it is not intended to include the Trust Territory of the Pacific Islands and the Panama Canal Zone.

Sections 303(a) and (b) of the bill would provide the Administrator with authority to make grants to any coastal authority to carry out the purposes of the proposed legislation. There is no provision in the bill, however, authorizing the Administrator or the Comptroller General or their representatives to have access to the books and records of the recipients of the Federal grants for the purpose of audit and examination. Such authority is provided to Federal grantor agencies and the Comptroller General with respect to grants-in-aid to States pursuant to section 202 of the Intergovernmental Cooperation Act of 1968, 82 Stat. 1101. We recommend that similar authority be provided with respect to recipients of funds under the proposed legislation. This could be accomplished by the following language:

"Each recipient of a grant under this Act shall keep such records as the Administrator may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is made or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate and effective audit.

"The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant under this Act which are pertinent to any such grant."

Section 304(a)(1)(A) of the bill lists factors to be considered in the determination of allotments among participating coastal States. The committee may wish to be more specific as to the financial needs which the Administrator is to take into consideration in the making of allotments and the relative weight to be accorded to the three factors listed in this section.

Section 304(c)(1) contains a list of Federal assistance programs with which coordination must be assured by the Administrator. The committee may wish to add the following acts to that list: the Clean Air Act, as amended; the Federal Water Pollution Control Act, as amended; and the Solid Waste Disposal Act of 1965, as amended.

On page 2, line 24, "Agency" should be "Administration."

Sincerely yours,

R. F. KELLER,
Assistant Comptroller General
of the United States

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., August 19, 1971.

B-167694.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives.

DEAR MR. CHAIRMAN: By letter of June 21, 1971, you requested our comments on H.R. 9229, 92d Congress, which would amend the Marine Resources and Engineering Development Act of 1966, as amended, by adding titles III and IV which, if enacted, would be cited as the "National Coastal and Estuarine Zone Management Act of 1971" and the "Marine Sanctuary Act of 1971," respectively.

We have no special information as to the advantages or disadvantages of the proposed legislation and, therefore, make no comments as to its merit. However, we have the following suggestions concerning specific provisions of the bill.

Section 304(b), page 5, defines coastal and estuarine zone as extending seaward to the outer limit of the United States territorial sea. The International convention on the Continental Shelf recognizes the sovereign rights of the coastal nation to explore the shelf and exploit its natural resources. Therefore, the committee may wish to consider redefining the coastal and estuarine zone to include the continental shelf which the Convention defines as "the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters, or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas" and "the seabed and subsoil of similar submarine areas adjacent to the coast of islands."

Section 304(c), page 5, defines "Coastal State" as including Puerto Rico, the Virgin Islands, Guam, and American Samoa. We assume it is not intended to include the Trust Territory of the Pacific Islands, the District of Columbia, and the Panama Canal Zone.

Section 305(a), page 6, of the bill authorizes the Secretary of Commerce to make annual grants to any coastal State in the development of a management plan and program for the land and water resources of the coastal and estuarine zone, provided that no such grant shall be made under this subsection until the Secretary finds that the coastal State is adequately and expeditiously developing such management plan and program.

This provision appears to preclude grants to States which have not yet started to develop a management plan and program. The committee may wish to consider language changes which would allow States which have not started to develop a management plan and program to receive grants for the purpose of developing a management plan and program.

Section 306(a), page 7, of the bill authorizes the Secretary to make annual grants to any coastal State for not more than 66⅔ per centum of the costs of administering the coastal State's management plan and program. Section 306(c)(4), page 8, of this bill states that the Governor shall designate a single agency to receive and administer the grants for implementing the management plan and program. It is not clear whether the grants issued under this section are intended to cover the costs of administering the management plan and program or if these grants are solely intended as operating grants for the implementation of the management plan and program. The committee may wish to clarify this language.

Section 306(c)(2), page 8, requires the coastal State to make provisions for public notice and to hold public hearings on the development of the management plan and program. All required public hearings under this title must be announced at least 30 days before they take place and all relevant materials, documents and studies must be readily available to the public for study at least 30 days in advance of the actual hearing or hearings. The committee may wish to increase the number of days notice for public hearings in order that the public may have advance notice that relevant studies and documents are to be available at least 30 days in advance of the hearings. This would give the public the benefit of the full 30 days to examine the relevant documents.

Section 307(a), page 12, should be clarified as it is now unclear whether it provides that States must adequately consider the views of principally affected Federal agencies prior to submitting their plans to the Secretary or whether the Secretary must adequately consider the views of principally affected Federal agencies prior to his approval of the States' plans. In either case, the committee may wish to set a specific time limit within which principally affected Federal agencies must submit their views.

Section 310, page 17, authorizes the Secretary to enter into agreements with coastal States to underwrite, by guaranty thereof, bond issues or loans for the purpose of land acquisition or land and water development and restoration projects. We believe that the bill should prescribe the terms and conditions of the bond issues or loans that may be guaranteed by the Secretary and the rights of the Federal Government in the case of default. Section 310 also states that the aggregate principal amount of guaranteed bonds and loans outstanding at any time may not exceed $140 million. We believe that the bill should further specify an aggregate amount of such guaranteed bond issues or loans available to each State. We also note that the bill does not identify the source of the Federal funds that would be needed in the event of any defaults.

Section 311, page 17, authorizes the Secretary to establish a coastal and estuarine zone management advisory committee composed of not

more than 15 persons designated by the Secretary. The section does not (1) specify the term of service of the members, and (2) provide for the designation of a chairman. The committee may wish to provide for (1) the term or terms of service and (2) the selection of a chairman.

It is suggested that section 316, page 22, be preceded by the caption "PENALTIES."

The committee may wish to provide captions for the sections in title IV of the bill other than section 401.

Section 402(d), page 25, states that the Secretary shall submit a report annually to the Congress setting forth a comprehensive review of his actions under the authority under this section. The committee may wish to set a specific date for the submission of this report.

Sincerely yours,

R. F. KELLER,
Acting Comptroller General
of the United States.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 11, 1971.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for our comments on H.R. 2492, H.R. 2493, and H.R. 3615, similar bills to assist the States in their establishment of coastal zone management plans and programs.

Because we recognize a real and urgent need for comprehensive land use planning, which would include the coastal zone and estuaries, we recommend the enactment of this Administration's National Land Use Policy Act of 1971, now pending as H.R. 4332, H.R. 4337, H.R. 4569 and H.R. 5504, in lieu of H.R. 2492, H.R. 2493 or H.R. 3615.

H.R. 2492 and H.R. 2493 would both amend the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 *et seq.*) by adding a new Title III, to be cited as the "Coastal and Estuarine Area Management Act" and the "National Coastal and Estuarine Zone Management Act of 1971", respectively. Consistent with a Congressional declaration that there is a national interest in the effective management, beneficial use, protection, and development of the Nation's coastal and estuarine zone, the Administrator of the National Oceanic and Atmospheric Administration (H.R. 2492) or the Secretary of Commerce (H.R. 2493) would be authorized to assist coastal States in the development and administration of an approved management plan and program. No such program could be approved without a finding that the coastal State has legal authority and institutional organization adequate for the management of its coastal zone. H.R. 2492 would authorize grants not to exceed 50% of two years' operating expenses for a coastal authority, and a like percentage annually for long-range planning or implementation of a management program. H.R. 2493 would authorize cost-sharing grants of 66⅔% for develop-

ment and subsequent administration of an approved management program.

Both bills would provide for bond and loan guarantees to facilitate land acquisition, land and water development, and restoration projects. In addition, H.R. 2493 provides for appointment of a fifteen-member advisory Committee and Federal assistance in the States' acquisition of estuarine sanctuaries.

H.R. 3615 would amend the so-called Estuary Protection Act of August 3, 1968 (16 U.S.C. 1221 *et seq.*) by adding a second title, the "National Estuarine and Coastal Zone Management Act of 1971".

The Secretary of the Interior would make grants not to exceed 50% of costs for program development and operation, and would be directed to develop a comprehensive Federal plan for that portion of the coastal zone beyond the territorial sea. There is provision, too, for the appointment of advisory committees to "consult with and make recommendations to the Secretary on matters of policy concerning the coastal zone".

As the result of two studies conducted by this Department and the Stratton Commission report, this Administration recommended that the 91st Congress enact legislation similar in concept to H.R. 2492, H.R. 2493 and H.R. 3615. We believed then, as we believe now, that the finite resources of our coastal and estuarine areas are threatened by population growth and economic development. At the Federal level, this Department had already been directed by the Estuary Protection Act of 1968 to conduct a study and inventory of the Nation's estuaries. As we reported to the Committee during the last Congress, it was a conclusion of our study and others that effective management of land and water resources could best be promoted by encouraging the States to accept a broadened responsibility for land use planning and management.

In its First Annual Report, the Council on Environmental Quality last August recognized "a need to begin shaping a national land use policy". In February of this year, the President urged that we "reform the institutional framework in which land use decisions are made", and recommended enactment of a proposed "National Land Use Policy Act of 1971". It is the President's proposal that $20 million be authorized in each of the next five years to assist the States in establishing methods for protecting lands, including the coastal zone and estuaries, of critical environmental concern, methods for controlling large-scale development, and inproving use of land around key facilities and new communities. "This proposal", the President said, "will replace and expand my proposal submitted to the last Congress for coastal zone management, while still giving priority attention to this area of the country which is especially sensitive to development pressures".

Specifically, H.R. 4332 would authorize a two-phase program of grants to be administered by the Secretary of the Interior. In that cost-sharing grants would be awarded both for program development and for program management, H.R. 4332 is similar to H.R. 2492, H.R. 2493 and H.R. 3615. The Administration proposal differs from the bills under consideration, however, with respect to the scope of a

State's planning activity and, indeed the number of States eligible for assistance. To assure that coastal zone and estuarine management receive the priority attention of coastal States, H.R. 4332 would identify the coastal zones and estuaries as "areas of critical environmental concern" and require that a State's land use program include a method for inventorying and designating such areas. Further, the Secretary would be authorized to make grants for program management only if State laws affecting land use in the coastal zone and estuaries take into account (1) the aesthetic and ecological values of wetlands for wildlife habitat, food production sources for aquatic life, recreation, sedimentation control, and shoreland storm protection and (2) the susceptability of wet lands to permanent destruction through draining, dredging, and filling, and the need to restrict such activities. Most important, perhaps, funds for program development and management would be allocated to the States under regulations which must take into account the nature and extent of coastal zones and estuaries.

Of the manmade threats to coastal environments described by the Council on Environmental Quality in its First Annual Report, most have their origin in heavily populated land areas at or near the water's edge. But others can be traced further inland, where eventual impact upon the coastal environment is not so easily recognized. Thus, while pressures become most intense at the point where land meets water, many cannot be alleviated without truly comprehensive planning. This fact, and the related absence of any precise geographic definition for the coastal zone, lies behind the integrated approach embodied in H.R. 4332. It may be noted that several States, coastal and inland, have already expressed a commitment to this concept. We urge that the Congress and your Committee, so effective in its concern for sound management of the coastal zone, join in this initiative to encourage planning for effective management of all the Nation's lands and waters.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

HARRISON LOESCH,
Assistant Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 23, 1971.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We respond to your request of June 21 for our comment on H.R. 9229, a bill "To establish a national policy and develop a national program for the management, beneficial use, protection and development of the land and water resources of the Nation's coastal and estuarine zones, and for other purposes".

By letter of June 11, we furnished comment on H.R. 2492, H.R. 2493 and H.R. 3615, all similar to H.R. 9229 in that they would authorize assistance to the States in their establishment of coastal zone management plans and programs. H.R. 9229 is also similar to S. 582, coastal zone legislation now pending before the Senate Committee on Commerce.

H.R. 9229 would amend the Marine Resources and Engineering Development Act of 1966 by adding new Titles III, the "National Coastal and Estuarine Zone Management Act of 1971", and IV, the "Marine Sanctuary Act of 1971". The bill would (1) authorize annual grants not to exceed 66⅔ percent of a State's costs in developing its coastal zone management program, provided that no single grant exceed $600,000, and a like percentage for costs of administering the program; (2) authorize a program of bond and loan guarantees to facilitate land acquisition, land and water development, and restoration projects; (3) authorize cost-sharing for the acquisition, development and operation of not more than 15 estuarine sanctuaries; and (4) provide for designation by the Secretary of Commerce of marine sanctuaries within areas of the high seas outside the coastal and estuarine zone and "superjacent to the subsoil and seabed of the Continental Shelf". "Marine sanctuary" is not defined, nor is there provided a distinction between "marine sanctuary" and "estuarine sanctuary", which, under terms of section 312(b), might also be established "seaward beyond the coastal and estuarine zone".

Our earlier comments are generally applicable to those provisions of H.R. 9229 which would provide for land use management within the coastal zone. We strongly recommend the enactment of H.R. 4332, this Administration's proposal for assistance to the States in their development of comprehensive plans for effective management of all the Nation's lands and waters. As we noted in the earlier report, the National Land Use Policy Act of 1971 (H.R. 4332) is intended to broaden the coverage of coastal zone legislation submitted during the last Congress, while still giving priority attention to those areas of the country which are particularly sensitive to development pressures.

The marine sanctuary concept proposed in H.R. 9229 as a new Title IV of the Marine Resources and Engineering Development Act of 1966 is deserving of careful study, and of treatment in a separate bill. It would be inappropriate, we believe, to embark upon the Federal regulatory scheme required by sections 412(f) and 413 within the context of legislation designed to assist the coastal States in the exercise of their land management responsibilities. Further, absent clarification, the proposed Title IV is in conflict with the mineral leasing provisions of the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343).

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

HARRISON LOESCH,
Assistant Secretary of the Interior.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., June 23, 1971.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the comments of the Environmental Protection Agency on H.R. 2492, H.R. 2493, H.R. 3615, and H.R. 6605, bills relating to protection of coastal and estuarine areas.

H.R. 2492

H.R. 2492 would amend the Marine Resources and Engineering Development Act to authorize the Administrator of the National Oceanic and Atmospheric Administration to make grants to "coastal authorities" established by States and having a broad interest in the development of coastal areas. Such grants would be authorized to pay up to 50% of the costs of operation of such an authority for the first two years of its existence. Further grants at the 50% level would be authorized upon the submission and approval of a proposal for long-range planning with respect to coastal and estaurine area management, or for the implementation of such a plan. In evaluating such proposals, the NOAA Administrator would be required to consider the extent to which they identified important areas, fostered multiple uses and provided methods for conflict resolution with respect to such uses, established machinery such as zoning, easements or land acquisition to ensure compliance with plans, provided for public participation and coordination with other agencies and organizations and fostered research on shoreline and estuarine resources. $5,000,000 annually would be authorized for operation and planning grants.

The Administrator of NOAA would also be authorized to enter into agreements to underwrite loans or bond issues, and to pay for a five-year period up to 25% of amortization charges or loan interests, with respect to such loans or issues, for the purpose of land acquisition, water development, or restoration projects in connection with the implementation of an approved plan. Two million dollars ($2,000,000) per year would be authorized for this purpose.

Grant funds would be allocated among coastal States according to regulations based on the populations of such States, the size of the coastal or estuarine areas, and the respective financial needs of the States.

H.R. 2493

This bill would authorize the Secretary of Commerce to award grants to coastal States for the development of management plans and programs for the land and water resources of the coastal zone. Such grants would not exceed 66⅔% of the planning costs. If the Secretary found that a plan was consistent with implementation plans under the Clean Air Act, the Federal Water Pollution Control Act, and the Solid Waste Disposal Act of 1965; that provision for public notice

and hearings on the plan and program had been made; that the plan and program had been reviewed and approved by the Governor; that a single agency would administer and implement the management plan and program; that the State had the necessary authority to implement the program, including controls over public and private development; and that the program would carry out the purposes of the bill, he would be authorized to make annual grants for the costs of administering the program, with the same maximum percentages as planning grants.

With the Secretary's approval, States would be authorized to develop plans in segments so as to focus attention on problem areas, and to revise plans to meet changed conditions. Grants could be terminated if the Secretary determined that a State was failing to implement its plan and program.

Additional provisions would require the Secretary, before approving programs, to consult with Federal agencies principally involved. Federal agencies conducting or supporting activities in the coastal zone would be required to "seek to make such activities consistent with the approved State management plan and program for the area." Federal development activities in the coastal zone would be prohibited if the coastal State deemed such activities inconsistent with a management plan unless the Secretary found such project consistent with the objectives of the bill, or in cases where the Secretary of Defense determined that the project was necessary in the interests of national security. Applicants for Federal licenses or permits to conduct any activity in the coastal zone would be required to obtain a certification from the appropriate State agency that the proposed activity was consistent with the coastal zone management plan and program.

The Secretary would be required to submit an annual report to the President for transmittal to the Congress on the administration of the Act.

H.R. 2493 would also authorize the establishment of "estuarine sanctuaries" for the purpose of studies of natural and human processes occurring within the coastal zone, and would provide for grants by the Secretary of up to 50% of the costs of acquisition, development, and operation of such sanctuaries.

H.R. 3615

This bill is derived from S. 3183, the Administration's proposed coastal zone management bill introduced in the 91st Congress.

H.R. 3615 would authorize the Secretary of the Interior to make program development grants to the coastal States to assist in developing comprehensive management programs for their coastal zones. Grants would be limited to 50 per cent of the State's cost of developing the program (to a maximum limit of $1,000,000 per year for each coastal State). Other Federal funds could not be used to match such grants. The initial and subsequent grants would be, respectively, conditioned on a demonstration that the funds would be used to develop a comprehensive management program consistent with the requirement of section 202(d)(3) of the bill, and on a finding that the coastal

State was adequately and expeditiously developing such a program. Upon completion of the development of the program the coastal State would be required to submit it to the Secretary for review.

Operating grants up to 50 per cent of costs of administering the program (to a maximum limit of $1,000,000 per year for each coastal State) would be authorized by section 202(d)(1) if the State's program were approved by the Secretary. Operating grants would be allotted to the States on the basis of regulations developed by the Secretary, taking into account the amount and nature of the coastline and area covered by the management plan, population, and other relevant factors. No grant funds could be used for the acquisition of real property.

Before approving a State's comprehensive management program, the Secretary would be required to find that the Governor had designated a single agency to receive and administer grants for implementing its management plan; that the management plan had been reviewed and approved by the Governor; that the coastal State was organized to implement the management plan; that the agency or agencies responsible for implementing the management plan had the necessary regulatory authority; that the coastal State had developed and adopted a coastal zone management plan, and that it had provided for adequate public notice and hearings in the development of its management plan.

Each coastal State's management plan would be required to: identify the area covered by the management plan; identify and recognize the national, State, and local interests in the preservation, use, and development of the coastal zone; contain a feasible land and water use plan reasonably reflecting short-term and long-term public and private requirements for use of the coastal zone; describe the coastal State's current and planned programs for the management of its coastal zone; identify and describe the means for coordinating the plan with Federal, State, and local plans for use, conservation, and management of the coastal zone, including State, interstate, and regional comprehensive planning; reflect the State's procedures for review of State, local, and private projects in the coastal zone for consistency with the plan and for advising whether Federal and federally assisted projects are consistent with the plan; describe the State's procedures for modification and changes of the management plan; indicate that the plan was developed in cooperation with relevant Federal agencies, State agencies, local governments, and all other interests; describe the procedures for regular review and updating of the plan; contain adequate provisions for disseminating information concerning the plan and subsequent modifications or changes; and provide for conducting, fostering, or utilizing relevant research.

The Governor of a coastal State would be authorized, with the Secretary's approval, to allocate portions of a program development grant or operating grant to an interstate agency if such agency had authority to perform the functions required of a coastal State under the bill.

Section 202(e) would require the Secretary to review the management program and performance of the coastal States and would authorize him to terminate and withdraw financial assistance, after notice

and opportunity to present evidence, where a coastal State unjustifiably failed to adhere to the program approved by the Secretary.

Section 202(g) would direct all Federal agencies conducting or supporting activities in coastal areas to make such activities consistent with the approved plan for the area, and would require such agencies to refrain from approving proposed projects inconsistent with the plan without a finding that the proposals, on balance, were sound.

The Secretary would be required to develop a comprehensive management plan for the resources of the coastal zone beyond the territorial sea. Such plans would provide for the exploitation of living marine resources, mineral resources, and fossil fuels.

H.R. 6605

H.R. 6605 would create a National Coastline Conservation Commission, consisting of two representatives from each coastal State, one representative from each interested executive department, and five representatives from the public at large, who would be appointed by the President with the advice and consent of the Senate. The Commission would be required to prepare a comprehensive study of all factors significantly affecting the present and future status of the coastal-marine zone, including all relevant natural and physical characteristics, all non-economic human activities and needs, all industrial, economic and commercial needs, existing legislation and regulations, and geological and demographic factors affecting the coastal zone. The Commission would be further required to consider the powers necessary for balanced conservation and development of the coastal zone, and which agency or agencies would be appropriate to exercise such powers.

After the preparation of the comprehensive study, the Commission would be required to prepare a comprehensive, coordinated and enforceable plan and management program for the conservation and development of the coastal zone. Before any part of plan could be adopted, the Commission would be required to hold public hearings in all areas affected by the plan, and general public hearings on the plan itself. Such plans would set forth the results of the comprehensive study, recommended policies for the coastal zone, powers consistent with those policies, recommended agencies to carry out the plan, and legislative and budgetary actions necessary.

While completing the plan and management program, the Commission would be authorized to comment upon and seek to influence proposed actions in the coastal-marine zone.

The Commission would be required to file an annual report with the President and the Congress no later than December 31 of each year.

H.R. 2492, H.R. 2493, and H.R. 3615 are essentially similar in that they would establish a program of grants to the States for the purpose of developing management and conservation programs for the coastal zone. H.R. 6605, however, calls for a study of these areas, and would eventually result in recommendations for further action, including legislation, which would be necessary to enforce the recommended conservation measures.

EPA believes that the time for studies of the coastal zone is past. Two major studies have already been completed of these areas which document in detail the actions which would be required to protect them. The "National Estuarine Pollution Study," which was developed for the Secretary of the Interior by the Federal Water Quality Administration, now a component of EPA, concluded that urbanization and industrialization, combined with unplanned development in the estuarine zone, have resulted in severe damage to the estuarine ecosystem. In addition, the "National Estuary Study," developed for the Secretary by the Fish and Wildlife Service, identified the need for a new thrust on the side of natural and aesthetic values in the Nation's estuarine areas. Clearly, we need to ensure that environmental values are adequately protected in such areas. In this connection, however, we are aware that land-use planning can affect all areas, not simply estuarine areas, and that adequate planning for preservation of estuarine and coastal areas can only be effective if the full range of alternatives to development in such areas can be considered. In other words, estuarine and coastal planning must be considered within the larger context of land-use planning State-wide.

Accordingly, EPA does not recommend the enactment of legislation which would deal only with development and other activities in the coastal zone. Controls are needed over all aspects of land use which can affect delicate or endangered areas of environmental concern. Such controls would be provided by H.R. 4332, the Administration's proposed "National Land Use Policy Act of 1971."

H.R. 4332 would authorize the Secretary of the Interior to make grants of up to 50% of cost to assist the States in developing and managing land use programs. Programs would be required to include methods for inventorying and exercising control over the use of land within areas of critical environmental concern, including coastal zones and estuaries. States would also be required to develop a system of controls of regulations to ensure compliance with applicable environmental standards and implementation plans.

EPA favors the approach embodied in H.R. 4332, which incorporates provisions for the protection of the coastal and estuarine areas into its more comprehensive scheme. At the same time, we recognize that the coastal zone is an area of special concern, where prompt and effective action is required. Heavy pressures for further development, coupled with the fragility of coastal and estuarine areas, make it imperative that we move immediately to protect these areas. The system authorized by H.R. 4332 will permit a high priority for coastal zone planning within its larger context of land use planning and programs. We therefore urge prompt Congressional approval of H.R. 4332, and recommend that the bills discussed previously not be enacted.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

WILLIAM D. RUCKELSHAUS,
Administrator.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., June 24, 1971.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Your request for comment on H.R. 2492, a bill "To provide for the effective management of the Nation's coastal and estuarine areas," has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

This bill would amend the Marine Resouces and Engineering Development Act of 1966 by adding thereto a new Title III to be known as the "Coastal and Estuarine Area Management Act." This Act would declare it to be the policy of Congress to foster effective utilization of coastal and estuarine areas through assistance to coastal States in their management of such areas. The bill would authorize the Administrator of the National Oceanic and Atmospheric Agency to make grants to any coastal authority for the purpose of defraying their operating expenses. The Administrator would be directed to review plans submitted by any coastal authority and to approve such plans, if they fulfill the objective of the Act. The Administrator would also be authorized to enter into agreements with any coastal State to underwrite, by guarantee, bonds issued on loans obtained by such States for land acquisition, water development, or restoration projects undertaken by such State in connection with the implementation of a coastal or estuarine management plan.

The Department of the Navy, on behalf of the Department of Defense, is sympathetic with the basic objectives of H.R. 2492; however, we wish to note that the comprehensive "National Land Use Policy Act of 1971 (H.R. 4332) which is part of the President's environmental program also contains provisions which give explicit recognition to the importance of the Nation's coastal and estuarine areas. We would defer to the Council on Environmental Quality and the Department of the Interior as to the desirability of legislation such as H.R. 2492, in light of the proposed "National Land Use Policy Act of 1971."

For the Committee's benefit, however, we would like to mention certain points that should be kept in mind in connection with any legislation designed to influence use of our coastal and estuarine areas. First, certain parts of such areas may be of great importance in connection with such national defense activities as weapons testing and development. Thus, it is vital that provision be made in any legislation in this area for consultation with the Secretary of Defense in connection with the federal approval of any State plan or program governing the use, development, or disposition of the resources of the coastal estuarine areas. We note in this connection that provision is made in the "National Land Use Policy Act of 1971" for consultation by the Department of the Interior with other concerned federal agencies, including, of course, the Department of Defense.

Second, as a matter of international law it is imperative that any legislation in this field contain language to the effect that nothing in such legislation should be construed as authorizing, and does not authorize any rules or controls which are in derogation of the internationally recognized right of innocent passage, through international straits or the sovereign immunity afforded certain vessels under international law.

Thirdly, under international law a nation has a right to exercise certain types of jurisdiction over portions of the seas. The United States at present claims a three-mile territorial sea in which, subject only to the right of innocent passage, and the sovereign immunity of certain vessels, the United States exercises complete jurisdictional control. From three to twelve miles international law reocgnizes a contiguous zone. Within such high-seas area the United States may exercise limited additional powers including control over fisheries, custom, fiscal, immigration and sanitation matters. Beyond these general and specialized jurisdictional zones, the United States may unilaterally exercise only exclusive sovereign rights over exploration and exploitation of the natural resources of the continental shelf (Convention on the Continental Shelf, TIAS 5578). Extreme care must be taken to avoid the inference that the United States is attempting to extend unilateral control to offshore areas beyond that which is permitted by international law.

Further, the President has recently issued an ocean-policy statement which calls for current law-of-the-sea questions, most of which involve questions of the limits of permissible coastal state jurisdictional control, to be resolved in the context of a multilateral convention. This initiative has been actively pursued by the United States in the United Nations, and has resulted in a General Assembly Resolution calling for a new Law-of-the-Sea Conference to convene in 1973. For the United States at this time to enact legislation appearing to unilaterally extend its offshore jurisdiction could be looked upon by many nations as a sign of bad faith with respect to our commitment to resolve law-of-the-sea problems in a multilateral context.

To avoid the possibility of any legislation being expansively interpreted, which would violate both international law and stated U.S. policy, it should be made clear that the United States coastal zone extends seaward only to the outer limit of the United States territorial sea.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on H.R. 2492 for the consideration of the Committee.

Sincerely yours,

LANDO W. ZECH, Jr.,
Captain, U.S. Navy, Deputy Chief
(For the Secretary of the Navy).

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., June 24, 1971.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Your request for comment on H.R. 2493, a bill "To assist the States in establishing coastal and estuarine zone management plans and programs," has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

The bill would amend the Marine Resources and Engineering Development Act of 1966 by adding thereto a new Title III to be known as the "National Coastal and Estuarine Zone Management Act of 1971." This Act would establish a national policy to preserve, develop, and restore the Nation's coastal and estuarine zone through the preparation and implementation of State management plans and programs. The Act would authorize the Secretary of Commerce to make grants to the coastal States to assist in the development and administration of their management plans and programs. In addition, the Secretary would be authorized to underwrite bond issues or loans for State land acquisition or State land and water development and restoration projects and to make grants to coastal States to acquire, develop and operate estuarine sanctuaries for the purpose of creating natural field laboratories.

The Department of the Navy, on behalf of the Department of Defense, is sympathetic with the basic objectives of H.R. 2493; however, we wish to note that the comprehensive "National Land Use Policy Act of 1971" (H.R. 4332) which is part of the President's environmental program also contains provisions which give explicit recognition to the importance of the Nation's coastal and estuarine areas. We would defer to the Council on Environmental Quality and the Department of the Interior as to the desirability of legislation such as H.R. 2493, in light of the proposed "National Land Use Policy Act of 1971."

For the Committee's benefit, however, we would like to mention certain points that should be kept in mind in connection with any legislation designed to influence use of our coastal and estuarine areas. First, certain parts of such areas may be of great importance in connection with such national defense activities as weapons testing and development. Thus, it is vital that provision be made in any legislation in this area for consultation with the Secretary of Defense in connection with the federal approval of any State plan or program governing the use, development, or disposition of the resources of the coastal estuarine areas. We note in this connection that provision is made in the "National Land Use Policy Act of 1971" for consultation by the Department of the Interior with other concerned federal agencies, including, of course, the Department of Defense.

Second, as a matter of international law it is imperative that any legislation in this field contain language to the effect that nothing in such legislation should be construed as authorizing, and does not authorize any rules or controls which are in derogation of the internationally recognized right of innocent passage, passage through

international straits or the sovereign immunity afforded certain vessels under international law.

As a technical matter, it is noted that the bill does not contain a section 305, but does contain two sections numbered 306 and two sections numbered 313.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budge advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on H.R. 2493 for the consideration of the Committee.

Sincerely yours,

LANDO W. ZECH, Jr.,
Captain, U.S. Navy, Deputy Chief,
(For the Secretary of the Navy).

U.S. ATOMIC ENERGY COMMISSION,
Washington, D.C., July 26, 1971.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives

DEAR MR. GARMATZ: The Atomic Energy Commission is pleased to reply to your requests for our views on H.R. 2492, H.R. 2493, H.R. 3615 and H.R. 9229, bills designed to assist the states in establishing coastal and estuarine zone management plans. We note that similar bills were introduced in the 91st Congress, viz., H.R. 14730, H.R. 14731, H.R. 14845, H.R. 15099, and H.R. 16155. Our views on those bills were submitted to you in our letter of May 5, 1970.

The present bills would establish a national policy for the management and protection of the coastal zone. To effectuate this policy, Federal financial assistance in the form of grants would be made available to coastal states to aid them in the development and administration of coordiated and comprehensive plans for the management of the coastal and estuarine areas of such states.

As indicated in our reply on the earlier coastal zone bills, we fully support meaningful efforts directed to the proper management of this nation's coastal and estuarine resources, and we support the objectives of these bills.

On February 8 of this year, the President transmitted to the Congress a message on the environment in which he proposed a wide-ranging program for the further preservation and enhancement of the quality of our environment. In his message, he discussed the need to promote environmental quality in land use decisions. To further this goal, he proposed the introduction of legislation that would establish a "National Land Use Policy", by which the states would be encouraged to plan for and regulate major developments affecting the growth and use of, what he termed, "critical land areas".

This legislation has since been introduced in the House as H.R. 4332. As the President stated, this legislation is designed to replace and expand his proposal for management of the coastal zone introduced in the last Congress (H.R. 14845, noted above), "while still giving priority

attention to this area of the country which is especially sensitive to development pressures."

In our view, the more comprehensive approach to the land management problem embodied in the Administration legislation, which recognizes the need to concentrate our planning efforts on other areas of "critical environmental concern", as well as the coastal zone, is preferable to that of the subject bills. Moreover, we believe the President's bill would effectively realize the objectives of H.R. 2492, H.R. 2493, H.R. 3615 and H.R. 9229.

While H.R. 4332 would be applicable generally to AEC licensing proceedings, as we understand it, the bill would not affect in any way AEC's exclusive statutory authority with respect to radiological health and safety an dthe common defense and security.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

E. J. BLOCH,
Deputy General Manager.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
July 30, 1971.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of June 21, 1971, for a report on H.R. 9229, a bill "To establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones, and for other purposes."

H.R. 9229 would authorize the Secretary of Commerce to make grants to any coastal State for the purpose of assisting in the development of a comprehensive management program for the land and water resources of the coastal zone. The bill would also provide for the designation of certain areas as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological, or esthetic values.

The views of this Department on the bill are those expressed in a report to your Committee on June 8, 1971, on H.R. 2493 and H.R. 3615, bills which would provide authority similar to that in H.R. 9229. For your convenience a copy of that report is enclosed.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ELLIOT L. RICHARDSON,
Secretary.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
June 8, 1971.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. GARMATZ: This letter is in response to your request of February 22, 1971 for a report on H.R. 2493, a bill "To assist the States in establishing coastal and estuarine zone management plans and programs", and H.R. 3615, a bill "To amend the Act of August 3, 1968, relating to the protection and restoration of estuarine areas, to provide for the establishment of a national policy and comprehensive national program for the conservation, management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone."

H.R. 3615 would authorize the Secretary of the Interior to make grants to any coastal State for the purpose of assisting in the development of a comprehensive management program for the land and water resources of the coastal zone. H.R. 2493 would grant this authority to the Secretary of Commerce.

On February 17, the Secretary of the Interior transmitted to the Congress the Administration's proposal which is embodied in H.R. 4332, the "National Land Use Policy Act of 1971". H.R. 4332 implements the proposals made by the President in his message of February 8, 1971, "Program for a better Environment." This Department strongly supports the Administration's proposal.

This Department would defer to the views of the Department of Interior, as to the merits of H.R. 2493 and H.R. 3615 in light of the proposals embodied in the Administration's bill, H.R. 4332.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ELLIOT L. RICHARDSON,
Secretary.

SMITHSONIAN INSTITUTION,
Washington, D.C., August 6, 1971.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for the opportunity to comment on H.R. 9229, a bill "To establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones, and for other purposes."

Your request, dated June 21, 1971, for Smithsonian comments on H.R. 9229 was received too late to prepare a detailed reply in time for

hearings on this bill scheduled before the Subcommittee on Oceanography for June 22–24, 1971. However, it is noted that H.R. 9229 is a modification and expansion of H.R. 2493, a bill whose general objectives the Smithsonian supports and upon which the Institution reported accordingly in a letter to you dated June 24, 1971 (copy attached).

The Smithsonian continues to support these basic objectives as now set forth in H.R. 9229. However, as observed in the report on H.R. 2493, the Institution notes the Administration's comprehensive and integrated "National Land Use Policy Act of 1971" (introduced as H.R. 4332) which gives concrete recognition to the importance of the Nation's coastal and estuarine areas by encouraging the coastal States to adopt special protective measures pertaining to these areas. For this reason, the Smithsonian defers to the views of the Council on Environmental Quality and the Department of the Interior regarding the specific implementing provisions set forth in H.R. 9229.

With respect to Marine Sanctuaries (Title IV of the proposed legislation), the Smithsonian firmly believes that serious consideration must be given to the need for marine sanctuaries. However, decisions of a complex nature will be involved in determining scientifically, economically, and politically (1) which areas should be delineated as marine sanctuaries, (2) the effect of the establishment of such areas upon competing biological and commercial uses; and (3) the posture, vis-a-vis international law, of such sanctuaries located beyond the 3-nautical-mile limit. For this reason, the matter of establishing marine sanctuaries may warrant special consideration on its own merits and very likely is the proper subject of a separate bill. Further, it might be useful to delay specific legislation until some of the planned international conferences, dealing with law and the ocean environment, have been completed in order to determine the type of legislation needed in the light of such agreements as may emerge from these conferences.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

S. DILLON RIPLEY, *Secretary.*

SMITHSONIAN INSTITUTION,
Washington, D.C., June 24, 1971.

HON. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for the opportunity to comment on H.R. 2492, a bill "To provide for the effective management of the Nation's coastal and estuarine areas," and H.R. 2493, a bill "To assist the States in establishing coastal and estuarine zone management plans and programs." Essentially, H.R. 2492 would empower the Administrator of the National Oceanic and Atmospheric Administration (NOAA) to make grants, subject to certain limitations, to State coastal authorities for the purpose of developing long-range planning and management of their respective coastal and estuarine areas. Further,

the Administrator would be authorized to underwrite a guarantee, bond issue, or loan obtained by a coastal State for land acquisition, water development, or restoration projects undertaken pursuant to a coastal or estuarine area management plan. Such plans would require approval by the Administrator as one condition to the making of a grant or underwriting loans, etc.

H.R. 2493 also would encourage coastal States to develop effective management plans for coastal and estuarine areas subject to competitive uses. Encouragement would assume the form principally of grants by the Secretary of the Department of Commerce to such States for the purpose of assisting in the development and administration of management plans and programs. The Secretary also would be authorized to underwrite bond issues or loans incurred by coastal States for the purpose of land acquisition, or land and water development and restoration projects accomplished in accordance with approved management plans and programs. The Secretary would be required to submit an annual report to the Congress, through the President, setting forth the undertakings and programs in the administration of this legislation. Finally, effective interagency coordination and cooperation would be required in accomplishing the objectives of the bill.

The Smithsonian Institution agrees that (1) the coastal and estuarine zones are ecologically fragile; (2) there are increasing and competing demands made upon the lands and waters of our coastal and estuarine zones; and (3) an integrated management and planning mechanism is necessary for effective development and protection of coastal and estuarine resources. Accordingly, the Smithsonian supports the basic objectives in H.R. 2492 and H.R. 2493. However, it should be noted that the Administration's comprehensive "National Land Use Policy Act of 1971" (introduced as H.R. 4332) also gives concrete recognition to the importance of the Nation's coastal and estuarine areas, by encouraging the coastal States to adopt special protective measures pertaining to these areas. For this reason, although the Smithsonian supports the general objectives of H.R. 2492 and H.R. 2493, the Institution defers to the views of the Council on Environmental Quality and the Department of the Interior regarding the specific provisions set forth in those bills.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

S. DILLON RIPLEY, *Secretary.*

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., August 9, 1971.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 9229, "To establish a national

policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones, and for other purposes."

The bill would authorize Federal guarantees of obligations issued by coastal States for land acquisition, water development, and restoration projects. It would not alter the tax status of obligations guaranteed under the bill. Thus, the bill would result in Federal guarantees of tax-exempt obligations.

The bill raises a number of questions of overall Federal credit program policy, including problems with Federal guarantees of tax-exempt obligations and the need to husband Federal credit resources. The enclosed statement by Assistant Secretary Weidenbaum before the Subcommittee on Oceans and Atmosphere of the Senate Committee on Commerce on S. 582, a similar bill, contains a detailed discussion of the Federal credit program policy questions which are also raised by H.R. 9229.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

SAMUEL R. PIERCE,
General Counsel.

STATEMENT BY HON. MURRAY L. WEIDENBAUM, ASSISTANT SECRETARY OF THE TREASURY FOR ECONOMIC POLICY, BEFORE THE SUBCOMMITTEE ON OCEANS AND ATMOSPHERE OF THE SENATE COMMITTEE ON COMMERCE

I am pleased to be here today to express the views of the Treasury Department on S. 582, a bill to establish a national policy and develop a national program for management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones.

The Administration has provided this Committee with comments on S. 582 and its relationship to the legislation proposed by the Administration, the National Land Use Policy Act, which has been introduced in the Senate as S. 992.

My comments will be addressed to the issues raised by the provision in S. 582 which would authorize Federal Government guarantees of obligations the interest on which would be exempt from Federal income taxation.

S. 582 would add a new title III to the Act of October 15, 1966, and the proposed new section 307 would authorize the Secretary of the Interior to guarantee obligations issued by coastal States for the purposes of land acquisition, or land and water development and restoration projects. The total amount of guaranteed obligations outstanding at any time could not exceed $140 million.

As stated in the Treasury Department's report of April 14, 1970 to Chairman Magnuson on S. 3460, 91st Congress, which is similar to S. 582, the Treasury Department opposes Federal guarantees of tax-exempt obligations because of four fundamental problems raised by such guarantees:

1. The guarantee of tax-exempt obligations is an inefficient form of subsidy since the Federal tax revenue loss exceeds the interest sav-

ings to the borrower because of the tax-exempt feature. For example, a guaranteed bond might sell in the current market at 5 percent on a tax-exempt basis and 7 percent on a taxable basis, in which case the tax-exempt feature would result in a savings to the borrower of 2 percent. Yet an investor in the 50 percent Federal income tax bracket would net only 3½ percent after taxes on a 7 percent taxable bond. Thus, only 2 percent of the 3½ percent Federal revenue loss would be realized by the borrowing public body.

2. The guarantee of tax-exempts disproportionately benefits investors in the higher Federal income tax brackets. That is, an investor in the 30 percent tax bracket receives roughly the same income after taxes on a 7 percent taxable bond and a 5 percent tax-exempt bond with the same Federal guarantee; but an investor in the 70 percent tax bracket who holds a 5 percent tax-exempt bond is receiving as much interest after taxes as he would on a 17 percent taxable bond.

3. Such guaranteed obligations heighten the competition for the limited amount of funds available to State and local borrowers from high tax bracket investors and raise the cost of financing other local projects for which direct Federal credit aid is not provided. For instance, a local public body might be required to pay a higher interest rate on its school bond issues if potential investors were attracted instead to the added supply of tax-exempt bonds with Federal guarantees.

4. Such guarantees conflict with Federal debt management policy by creating a class of securities (tax-exempt) which the Federal Government itself is prohibited from issuing by the Public Debt Act of 1941.

In addition to our concern with the problems resulting from Federal guarantees of tax-exempt obligations, we are also concerned with the growing tendency to rely on direct Government support of borrowings in the private market.

There have been several studies in recent years by the Administration, the Congress, and others of the various methods of providing Federal credit assistance to States and local public bodies as well as to private borrowers. The general conclusion from these studies has been that the provision of credit in our economy is properly a function of private lending institutions and that direct Federal credit assistance should generally not be provided except in cases where borrowers are unable to obtain credit on reasonable terms in the private market for programs of high national priority.

In this regard, section 307 would permit full Federal guarantees of tax-exempt bonds for any borrowings for the purposes set forth in that section. Thus, all eligible borrowers might be encouraged to seek this Federal credit aid regardless of the borrower's ability to obtain funds from normal private market sources. The guarantee would effectively shift to the Federal Government the investment risk normally entailed in these obligations so that they would sell on the market at rock bottom interest rates along with other top rated securities. It is easy to see how widespread availability of Federal guarantees would quickly lead to Federal intervention in credit activities throughout the economy.

The Treasury Department is not itself aware of the specific problems which coastal States might have in borrowing for the purpose stated in S. 582 in the private market without Federal guarantees of their obligations or, indeed, whether the States desire to borrow for these purposes.

We are especially concerned with the need to husband Federal credit resources, just as we do Federal budget resources, in view of the current large increases in Federal credit programs which are financed outside of the Federal budget. In the Budget for the fiscal year 1972 it is estimated that the amount of such Federally-assisted loans outstanding will increase by $30 billion compared to an increase in fiscal 1970 of $13 billion.

In his Budget Message to the Congress on January 29, 1971 the President stated:

"Furthermore, Federal credit programs which the Congress has placed outside the budget—guaranteed and insured loans, or loans by federally sponsored enterprises—escape regular review by either the executive or the legislative branch. The evaluation of these extra-budgetary programs has not been fully consistent with budget items. Their effects on fiscal policy have not been rigorously included in the overall budget process. And their effects on overall debt management are not coordinated well with the overall public debt policy. For these reasons, I will propose legislation to enable these credit programs to be reviewed to enable these credit programs to be reviewed and co-ordinated along with other Federal programs."

The Treasury Department is currently working with other agencies in preparing the legislation referred to by the President and we hope to be in a position soon to submit a proposad to the Congress.

I understand that your Committee wishes to consider the feasibility of alternative methods of providing credit assistance under S. 582 and that you would also like to discuss the collateral issues raised by the various alternatives.

DIRECT LOANS

Looking at the problem just from the standpoint of financial efficiency, the most direct, and least expensive, method of financing is direct Federal loans. That is, the Treasury Department is able to borrow at lower interest rates than would be required on the market obligations of other borrowers. Direct Federal loans would, of course, require direct budget outlays. Limited budgetary resources in recent years have not permitted significant expansion of direct Federal lending, and it appears in some cases that the Congress is unwilling to rely on the availability of budget funds to finance Federal credit programs.

GUARANTEES OF TAXABLE MUNICIPAL BONDS

In order to avoid both the budget outlay problems with direct loans and the tax-exempt interest problem with loan guarantees the Congress provided last year for a new method of financing, namely, Federal guarantees and interest subsidies on taxable municipal bonds. This new financing technique was first authorized in P.L. 91–296, the Medical Facilities Modernization Act of 1970. In that case, which involved Federal credit aid to public bodies for hospital facilities, the Administration submitted legislation proposing guaranteed loans for private hospitals and, in order to avoid the tax-exempt bond guarantee problem, direct loans for public bodies. Yet both the Senate and House committees considering this legislation recommended instead Federal guarantees of tax-exempt obligations.

In the Congressional consideration of the medical facilities bill there was no apparent disagreement between the Administration and the Congress regarding the problems created by tax-exempt bond guarantees. Nevertheless, the committees apparently felt that guaranteed loans to public bodies, since they would not depend upon the availability of direct loan funds in the budget, were essential to assure the availability of credit aid. Under the circumstances the Administration agreed to a Senate amendment to the House-passed bill, which was subsequently enacted in P.L. 91–296. That amendment provided that the obligations could be purchased by the Federal Government from a revolving loan fund then resold in the private market with a guarantee. When resold the interest on any obligations guaranteed under the Act would be subject to Federal income taxation notwithstanding the fact that they were obligations issued by States or other public bodies. Similar provisions were later enacted by the Congress for the rural water and sewer loans of the Farmers Home Administration (P.L. 91–617). A somewhat different approach was taken for new community loans guaranteed by the Department of Housing and Urban Development (P.L. 91–609). Under that act the new community obligations can be issued directly in the market by the public bodies on a taxable basis. Thus the Congress in 1970 provided for the first time for Federal guarantees of *taxable* municipal obligations and did this in three separate acts.

The Farmers Home loans and the medical facilities loans are expected to be made directly by the Federal agencies at low interest rates and then sold in the private market with a Federal guarantee and supplemental interest payments to the investor in whatever amounts necessary to meet the market. The new community loans will be made and held by private investors but will also receive a Federal interest subsidy and guarantee. The Treasury Department and the Administration supported these provisions as preferable to guarantees of tax-exempt bonds in recognition of the urgent needs for Federal credit assistance in these three areas.

CONSOLIDATED FINANCING

Another approach to providing credit assistance to local public bodies is the Environmental Financing Authority proposal by the President in his Environmental Message to the Congress on February 8, 1971.

The Environmental Financing Authority would purchase tax-exempt obligations issued by local public bodies to finance the non-Federal share of the costs of the construction of waste treatment facilities eligible for Federal grants from the Environmental Protection Agency. EFA could purchase only obligations guaranteed by EPA and only if the issuing public body is unable to borrow in the market on reasonable terms. EFA would finance its purchases by selling its own securities in the market, and appropriations would be authorized to cover the difference between EFA's taxable borrowing rate and its tax-exempt lending rate.

The EFA legislation (S. 1015) would permit a more efficient method of financing as compared with the approach taken in the three bills enacted last year for Federal guarantees of taxable municipal bonds.

That is, EFA as a corporate body empowered to issue its own obligations in the market would have the advantages of consolidated financing and an ability to adjust the timing, maturities, and other terms of its issues to changing market conditions in order to minimize its borrowing costs. Also, since there is an established market for Federal agency securities, EFA would be able to mobilize quickly the funds necessary to meet the urgent needs for waste treatment facilities.

While the EFA approach may be the most efficient method, short of direct Treasury financing, of providing Federal credit assistance for certain programs, the Administration considers that the use of this approach beyond assisting the financing of waste treatment facilities is not justified at this time. In this connection, I would particularly like to stress our objection to use of the EFA approach on a program by program basis, the inevitable result of which would be to move toward the establishment of a number of small Federally sponsored agencies competing with each other in the capital markets in the funding of new and comparatively modest Federal financial assistance programs.

In conclusion, we feel that Federal credit assistance should be authorized only for programs of high national priority and only for borrowers who are unable to meet their needs in the private financial markets. In those cases where the need for Federal credit aid is clearly established we believe that the financing should be conducted in the most efficient manner available and in the taxable rather than in the tax-exempt market.

I would like to stress again, as indicated in the President's statement on credit programs in the Budget Message, that legislation will be proposed to facilitate overall review and coordination of both the financial and budgetary aspects of Federal credit programs which are financed outside the regular budget. Pending the enactment of this legislation we would recommend against the establishment of additional programs of Federal credit aid except for the most urgent credit needs.

This concludes my remarks on the provision of S. 582 of major concerns to the Treasury and on several alternative methods of Federal financial assistance that have recently been enacted or proposed by the Administration. I would be happy to answer any questions you may have.

THE SECRETARY OF HOUSING
AND URBAN DEVELOPMENT,
Washington, D.C., March 23, 1972.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further response to your request for our views on H.R. 2492, H.R. 2493, H.R. 3615, and H.R. 9229, all of which relate to the establishment, development, protection, and management of the Nation's estuarine and coastal zones.

The four coastal zone bills in question are so broadly drawn as to encompass most of the heavily populated areas along our coasts. In this respect, it appears to us that enactment of any of the bills could

result in State programs dealing heavily with urban and metropolitan land use and management issues as well as with issues peculiar to the narrower purpose of protecting coastal and estuarine areas from development, pollution, and other adverse impacts. In our view, a broad approach extending to a consideration of State and areawide needs is desirable but should be provided through legislation which is specifically designed for this purpose and which is not limited to particular parts of the country. We would recommend, in this respect, early enactment of the Administration's proposed National Land Use Policy Act (H.R. 4332).

We would also like to point out that even if the above bills were narrowed by amendments to their now broad definition of "coastal zone", enactment of the resulting legislation might create an adverse precedent in terms of approach and State organization should subsequent broader legislation be enacted. Also, the narrower legislation appears to us unfair as to inland States which may also have critical environmental and land use problems.

Finally, two of the bills, H.R. 2493 and H.R. 9229, raise questions relating to Federal guarantees of State bond issues and loans. These matters are of particular concern to the Department of the Treasury, and we would invite the Committee's attention to the testimony of Secretary Connally on similar Senate legislation, S. 582, with respect to these matters.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GEORGE ROMNEY.

GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE,
Washington, D.C., May 2, 1972.

Hon. ALTON A. LENNON,
Chairman, Subcommittee on Oceanography, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your recent request for the Department of Commerce to provide you estimates of costs involved in H.R. 14146, a bill "to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zone, and for other purposes."

The bill would amend the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes." by adding to the end thereof the following new titles: Title III, Coastal Zone Management Act of 1971"; and Title IV, "Marine Sanctuary Act of 1971".

It is estimated that initially the annual cost of administering H.R. 14146, if enacted, would be $2,830,000 with 89 employees, consisting of 62 professional and 27 secretarial. The cost is based on the following

breakdown: (1) Salaries of Staff, $1,740,000; (2) Benefits of Staff and Overhead, $490,000; (3) Travel of Staff, $100,000; (4) Contract Funds, $400,000; and (5) Advisory Committee Per Diem and Travel, $100,000. In the absence of information indicating otherwise, we would assume level funding for the first several years of this program.

It is anticipated that the professional employees would include but not be limited to attorneys, ecologists, geologists, economists, social scientists, contract specialists, coastal zone planners, and systems analysts.

The amount required for administration of Title IV, the "Marine Sanctuary" portion of the bill is not separately broken out because it is expected that the nucleus of personnel required under provisions of the major portion of the bill, Title III, will also be required under the marine sanctuary portions.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,
Deputy General Counsel.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the rules of the House of Representatives, as amended, changes in existing law made by the bill as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes

[80 Stat. 203 (33 U.S.C. 1101-1124)]

TITLE I—MARINE RESOURCES AND ENGINEERING DEVELOPMENT

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TITLE II—SEA GRANT COLLEGES AND PROGRAMS

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TITLE III—MANAGEMENT OF THE COASTAL ZONE

SHORT TITLE

SEC. 301. This title may be cited as the "Coastal Zone Management Act of 1972".

CONGRESSIONAL FINDINGS

SEC. 302. The Congress finds that—

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;

(*b*) *The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;*

(*c*) *The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;*

(*d*) *The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;*

(*e*) *Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;*

(*f*) *Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;*

(*g*) *In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and*

(*h*) *The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.*

DECLARATION OF POLICY

SEC. 303. The Congress declares that it is the national policy (*a*) *to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations,* (*b*) *to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development,* (*c*) *for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and* (*d*) *to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and*

regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

DEFINITIONS

SEC. 304. For the purposes of this title—

(a) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control those shorelands, the uses of which have a direct impact on the coastal waters.

(b) "Coastal waters" means (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(c) "Coastal state" means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(d) "Estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(e) "Estuarine sanctuary" means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(f) "Secretary" means the Secretary of Commerce.

MANAGEMENT PROGRAM DEVELOPMENT GRANTS

SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal state for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

(b) Such management program shall include:

(1) an identification of the boundaries of the portions of the coastal state subject to the management program;

(2) a definition of what shall constitute permissible land and water uses;

(3) an inventory and designation of areas of particular concern;

(4) an identification of the means by which the state proposes to exert control over land and water uses, including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions;

(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process.

(c) The grants shall not exceed 66⅔ per centum of the costs of the program in any one year. Federal funds received from other sources shall not be used to match the grants. In order to qualify for grants under this subsection, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. Successive grants may be made annually for a period not to exceed two years: Provided, That no second grant shall be made under this subsection unless the Secretary finds that the state is satisfactorily developing such management program.

(d) Upon completion of the development of the state's management program, the state shall submit such program to the Secretary for review and approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such program by the Secretary, the state's eligibility for further grants under this section shall terminate, and the state shall be eligible for grants under section 306 of this title.

(e) Grants under this section shall be allocated to the states based on rules and regulations promulgated by the Secretary: Provided, however, That no management program development grant under this section shall be made in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section.

(f) Grants or portions thereof not obligated by a state during the fiscal year for which they were first authorized to be obligated by the state, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

(g) With the approval of the Secretary, the state may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to a regional agency, or to an interstate agency, a portion of the grant under this section, for the purpose of carrying out the provisions of this section.

(h) The authority to make grants under this section shall expire on June 30, 1975.

ADMINISTRATIVE GRANTS

SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal state for not more than 66⅔ per centum of the costs of ad-

ministering the state's management program, if he approves such program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the state's share of costs.

(b) Such grants shall be allowed to the states with approved programs based on rules and regulations promulgated by the Secretary, which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: Provided, however, That no annual administrative grant under this section shall be made in excess of 15 per centum of the total amount appropriated to carry out the purposes of this section.

(c) Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

(1) The state has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in Section 303 of this title.

(2) The state has:

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

(3) The state has held public hearings in the development of the management program.

(4) The management program and any changes thereto have been reviewed and approved by the Governor.

(5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

(8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

(9) The management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values.

(d) *Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local government, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—*

(1) to administer land and water use regulations, control development in order to insure compliance with the management program, and to resolve conflicts among competing uses; and

(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(e) *Prior to granting approval, the Secretary shall also find that the program provides:*

(1) for any one or a combination of the following general techniques for control of land and water uses:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

(B) Direct state land and water use planning and regulation; or

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

(f) *With the approval of the Secretary, a state may allocate to a local government, or an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: Provided, That such allocation shall not relieve the state of the responsibility for insuring that any funds so allocated are applied in furtherance of such state's approved management program.*

(g) *The state shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are to be made to the state under the program as amended.*

(h) *At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas of the coastal zone which most urgently need management programs: Provided, That the state adequately allows for the ultimate coordination of the various segments of the management program into a single*

unified program and that the unified program will be completed as soon as is reasonbly practicable.

INTERAGENCY COORDINATION AND COOPERATION

SEC. 307. (a) In carrying out his functions and responsibilities under this title, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and the state in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

(c) (1) Each Federal agency conducting or supporting activities in the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

(3) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved, and from the state, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

(d) State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management

program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

(e) Nothing in this section shall be construed—

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources and navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

PUBLIC HEARINGS

SEC. 308. All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

REVIEW OF PERFORMANCE

SEC. 309. (a) The Secretary shall conduct a continuing review of the management programs of the coastal states and of the performance of each state.

(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of proposed termination and withdrawal and an opportunity to present evidence of adherence or justification for altering its program.

RECORDS

SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by

other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

ADVISORY COMMITTEE

SEC. 311. (a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than ten persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.

(b) Members of said advisory committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding $100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

ESTUARINE SANCTUARIES

SEC. 312. (a) The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not exceed $2,000,000. No Federal funds received pursuant to section 305 or section 306 shall be used for the purpose of this section.

(b) When an estuarine sanctuary is established by a coastal state, for the purpose envisioned in subsection (a), whether or not Federal funds have been made available for a part of the costs of acquisition, development, and operation, the Secretary, at the request of the state concerned, and after consultation with interested Federal departments and agencies and other interested parties, may extend the established estuarine sanctuary seaward beyond the coastal zone, to the extent necessary to effectuate the purposes for which the estuarine sanctuary was established.

(c) The Secretary shall issue necessary and reasonable regulations related to any such estuarine sanctuary extension to assure that the development and operation thereof is coordinated with the development and operation of the estuarine sanctuary of which it forms an extension.

MANAGEMENT PROGRAM FOR THE CONTIGUOUS ZONE OF THE UNITED STATES

SEC. 313. (a) The Secretary shall develop, in coordination with the Secretary of the Interior, and after appropriate consultation with the Secretary of Defense, the Secretary of Transportation, and other interested parties, Federal and non-Federal, governmental and nongovernmental, a program for the management of the area outside the coastal zone and within twelve miles of the baseline from which the breadth of the territorial sea is measured. The program shall be developed for the benefit of industry, commerce, recreation, conservation, transportation, navigation, and the public interest in the protection of the environment and shall include, but not be limited to, provisions for the development, conservation, and utilization of fish and other living marine resources, mineral resources, and fossil fuels, the development of aquaculture, the promotion of recreational opportunities, and the coordination of research.

(b) To the extent that any part of the management program developed pursuant to this section shall apply to any high seas area, the subjacent seabed and subsoil of which lies within the seaward boundary of a coastal state, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 Stat. 29), the program shall be coordinated with the coastal state involved.

(c) The Secretary shall, to the maximum extent practicable, apply the program developed pursuant to this section to waters which are adjacent to specific areas in the coastal zone which have been designated by the states for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values.

ANNUAL REPORT

SEC. 314. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding Federal fiscal year. The report shall include but not be restricted to (1) an identification of the state programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and a description of the status of each state's program and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allotment of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any State programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this title in order of priority; and (9) such other information as may be appropriate.

(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

RULES AND REGULATIONS

SEC. 315. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

PENALTIES

SEC. 316. (a) Whoever violates any regulation which implements the provisions of section 312(c) or section 313(a) of this title shall be liable to a civil penalty of not more than $10,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

(b) No penalty shall be assessed under this section until the person charged shall have been given notice and an opportunity to be heard. For good cause shown, the Secretary may remit or mitigate any such penalty. Upon failure of the offending party to pay the penalty, as assessed or, when mitigated, as mitigated, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect such penalty and to seek other relief as may be appropriate.

(c) A vessel used in the violation of any regulation which implements the provisions of section 312(c) or section 313(a) of this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

(d) The district courts of the United States shall have jurisdiction to restrain violations of the regulations issued pursuant to this title. Actions shall be brought by the Attorney General in the name of the United States, either on his own initiative or at the request of the Secretary.

APPROPRIATIONS

SEC. 317. (a) There are authorized to be appropriated—

(1) the sum of $15,000,000 for fiscal year 1973 and for each of the two succeeding fiscal years for grants under section 305 to remain available until expended;

(2) the sum of $50,000,000 for fiscal year 1974 and for fiscal year 1975 for grants under section 306 to remain available until expended; and

(3) the sum of $6,000,000 for fiscal year 1973 and for each of the two succeeding fiscal years for grants under section 312, to remain available until expended.

(b) There are also authorized to be appropriated such sums, not to exceed $3,000,000, for fiscal year 1973 and for each of the two succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title.

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